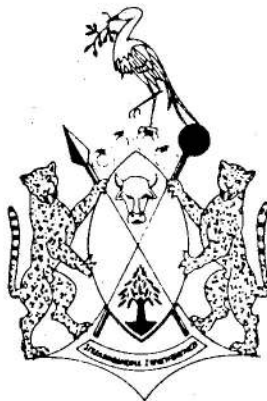


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DEPARTMENT OF JUSTICE, POLICE AND PRISONS

GOVERNMENT NOTICE NO. 14

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:—

SECTIONAL TITLES AMENDMENT ACT, 1984
(ACT NO. 45 OF 1984)

SECTIONAL TITLES AMENDMENT ACT, 1984

A C T

To amend the Sectional Titles Act, 1971 and to provide for incidental matters.

(English text signed by the President. Assented to on 30 January 1985.)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:—

- Amendment of section 1 of Act 66 of 1971, as amended by section 49 of Act 94 of 1974.*
1. Section 1 of the Sectional Titles Act, 1971 (hereinafter in this Act referred to as the principal Act) is hereby amended —
- (a) by the deletion of the definition of "Administrator";
 - (b) by the substitution for the definition of "Court" of the following definition:
" 'Court' means the Supreme Court of Ciskei;";
 - (c) by the substitution for the definition of "deeds registry" of the following definition:
" 'deeds registry' means the deeds registry established by section 1 of the Deeds Registries Act;";
 - (d) by the substitution for the definition of "developer" of the following definition:
" 'developer' means a person who is the registered owner of land which is situated within the area of jurisdiction of a local authority and on which is situated or to be erected a building or buildings which he has divided or proposes to divide into two or more sections in terms of a scheme, or his successor-in-title, and includes —
 - (a) for the purposes of sections 8A and 8 B the agent of any such person or his successor-in-title, or any other person acting on behalf of any of them;
 - (b) for the purpose of section 18, the body corporate;
 - (c) for the purpose of rebuilding in accordance with the relevant registered sectional plan any building that is deemed to have been destroyed, the body corporate or the person to whom the body corporate has transferred the land pursuant to section 37 (6);";
 - (e) by the substitution for the definition of "local authority" of the following definition:
" 'local authority' means —
 - (a) a municipality or other local institution of a similar nature; or
 - (b) in any area in which there is no municipality or such other local institution, the Minister of Internal Affairs and Land Tenure or any officer of his department acting under his authority;";
 - (f) by the substitution for the definition of "registrar" of the following definition:
" 'registrar' means the Registrar of Deeds;";
 - (g) by the substitution for the definition of "sectional mortgage bond" of the following definition —
" 'sectional mortgage bond' means a sectional mortgage bond hypothecating a unit or an undivided share in a unit or land, held under a separate sectional title deed, or a registered lease or sub-lease of any such unit or undivided share in a unit or land, or any other registered real right in or over any such unit or undivided share in a unit or land;"; and
 - (h) by the insertion after the definition of "this Act" of the following definition:
" 'time-sharing development scheme' means a development scheme under which sections of a divided building or buildings are disposed of in undivided shares in such a manner that an owner of any undivided share shall, under a separate sectional title deed, be entitled annually to the exclusive occupation or use of the relevant section for a specific recurrent period of time;";
- Amendment of section 2 of Act 66 of 1971.*
2. Section 2 of the principal Act is hereby amended by the substitution for paragraphs (b), (d) and (e) of the following paragraphs, respectively:
- "(b) separate ownership in such sections or an undivided share therein may be acquired in accordance with the provisions of this Act;
 - (d) any real right may be acquired in or over any such section or an undivided share therein or common property in accordance with the provisions of this Act;
 - (e) a registrar may, in accordance with the provisions of this Act, register in a deeds registry a title deed whereby ownership in, or any lease of, or any other real right in or over, any such section or an undivided share therein or common property is acquired."
- Amendment of section 3 of Act 66 of 1971.*
3. Section 3 of the principal Act is hereby amended by the substitution in subsection (1) for the words "a deeds registry" of the words "the deeds registry";
- Amendment of section 4 of Act 66 of 1971, as amended*
4. Section 4 of the principal Act is hereby amended —
- (a) by the insertion after subsection (2) of the following subsection:
"(2A) If one or more parts of a building which are comprised in a proposed scheme and which

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by section 1 of Act 1 of 1977 and section 1 of Act 12 of 1981.

after a division of the building will constitute a unit or units therein, is or are let wholly or partially for residential purposes, a developer shall not make any application referred to in subsection (1), unless —

- (a) every lessee of every part which is leased for such residential purposes —
 - (i) has been notified in writing by the developer, by letter delivered either personally or by registered post, of a date, at least 14 days after the date of the notice, of a meeting of such lessees to be held in the building or in another building within the area of jurisdiction of the relevant local authority at which the developer or his agent intends to be available to provide the lessees with —
 - (aa) such particulars of the relevant scheme as they may reasonably require from him; and
 - (bb) the information regarding their rights as set out in section 8B of this Act; and
 - (ii) has at the same time been provided by the developer with a certificate containing the prescribed particulars in respect of the relevant building, and parts thereof or units therein, and of the relevant scheme;
 - and
 - (b) a meeting contemplated in paragraph (a) (i) has been held and the developer or his agent has been available thereat to provide the particulars contemplated in the said paragraph, and has answered all reasonable questions put to the developer or agent by the lessees present.”;
 - (b) by the substitution for subsection (3) of the following subsection:

“(3) Such application shall be made in the prescribed form and be accompanied by —

 - (a) the sectional plan;
 - (b) an affidavit by the developer stating whether the provisions of subsection (2A) apply to the scheme or not, and, if that subsection is applicable, whether the provisions of that subsection have been complied with;
 - (c) in a case where the provisions of subsection (2A) apply to the relevant scheme, a copy of the notice and certificate referred to in subparagraphs (i) and (ii), respectively, of subsection (2A) (a); and
 - (d) such other documents and information as may be prescribed.”;
 - (c) by the substitution for paragraph (b) of subsection (6) of the following paragraph:

“(b) unless the provisions of subsection (3) have been complied with;”;
- (d) by the substitution in subsections (9) and (10) for the word “Administrator”, wherever it occurs, of the words “Minister of Internal Affairs and Land Tenure”.

Amendment of section 5 of Act 66 of 1971, as amended by section 2 of Act 1 of 1977.

- 5. Section 5 of the principal Act is hereby amended —
 - (a) by the deletion in subsection (1) of the words “in charge of the deeds registry in which the land comprised in the scheme is registered”; and
 - (b) by the substitution in paragraph (d) of subsection (3) for the word “Administrator” of the words “Minister of Internal Affairs and Land Tenure”.

Amendment of section 6 of Act 66 of 1971, as amended by section 3 of Act 1 of 1977 and section 1 of Act 54 of 1980.

- 6. Section 6 of the principal Act is hereby amended by the substitution in subsection (7) for the words “any deeds registry” of the words “the deeds registry”.

Amendment of section 7 of Act 66 of 1971.

- 7. Section 7 of the principal Act is hereby amended by the substitution in subsection (2) for the words “a deeds registry” of the words “the deeds registry”.

Amendment of section 8A of Act 66 of 1971, as inserted by section 2 of Act 12 of 1981.

- 8. Section 8A of the principal Act is hereby amended —
 - (a) by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs, respectively:

“(a) sell any unit or an undivided share in a unit in respect of any building and land or any interest purporting to be a proposed unit or an undivided share in a unit in respect of a building and

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land for which no sectional plan has been prepared;

- (b) offer or advertise for sale any unit or an undivided share in a unit or interest referred to in paragraph (a),"; and
- (b) by the substitution for subsection (4) of the following subsection:
"(4) A developer who commits an act which if it were not for the provisions of subsection (2), would have constituted the sale of a unit or an undivided share in a unit or an interest contrary to the provisions of paragraph (a) of subsection (1), or who contravenes the provisions of paragraph (b) of subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

*Insertion of section
8B in Act 66 of 1971.*

9. The following section is hereby inserted in the principal Act after section 8A:

*"Sales by developers
of certain units occu-
pied by certain lessees.*

- 8B. (1) A developer shall, notwithstanding that a sectional title register has been opened in respect of a building and land, and subject to subsection (5), not offer for sale or sell any unit in that building which is occupied by a lessee referred to in section 4 (2A) to any person other than the lessee, unless the developer has, by letter delivered either personally or by registered post, offered the unit for sale in writing to the lessee and the lessee has refused the offer within a period of 90 days, or, in the case of a unit which is controlled premises referred to in the Rent Control Act, 1976 (Act No. 80 of 1976), and is subject to the provisions of that Act, within a period of 365 days, of the date of the offer.
- (2) If a lessee has refused an offer referred to in subsection (1) within the applicable period mentioned therein, or has at the expiration of such applicable period not accepted the offer, the developer shall not, within a period of 180 days from the date on which the lessee has refused the offer, or on which such applicable period has expired, as the case may be, offer for sale or sell the relevant unit to any person other than the lessee concerned at a price lower than that at which it was offered for sale in terms of subsection (1) to the lessee, unless the developer has offered the unit at that lower price for sale to the lessee again and he has refused the offer within a period of 60 days from the date thereof, or has on the expiration of that period not accepted the offer.
- (3) A developer -
- (a) shall as from the date on which a lessee has been notified in terms of section 4 (2A) (a) (i) by the developer of the meeting referred to in that section -
 - (i) subject to subparagraph (ii), as long as the lessee continues to occupy the relevant unit and to comply with the conditions of the relevant lease; or
 - (ii) after the unit has been offered for sale in accordance with subsection (1) to the lessee and the lessee has refused the offer or the relevant period referred to in subsection (1) has expired, as the case may be, until the date of expiry of the relevant period of 180 days referred to in subsection (2), or, where applicable, the period of 60 days referred to in the last-mentioned subsection, whichever date occurs last, not require the lessee concerned to vacate the unit unless the lessee has been guilty of non-payment of rent, or has inflicted material damage to the unit, or has been guilty of conduct which is a nuisance to occupiers of other units in the building concerned; and
 - (b) shall in any case contemplated in paragraph (a) (ii), until the date of expiry of the relevant period of 180 days mentioned therein or, where applicable, the period of 60 days mentioned in that paragraph, whichever date occurs last, not require or permit the lessee to pay an amount of rent higher than the amount which was payable by the lessee on the date contemplated in subsection (1) on

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which the lessee refused the offer referred to in that subsection, or on which the relevant period referred to in that subsection expired, as the case may be:

Provided that the foregoing provisions of this subsection shall not derogate from any applicable provision of the Rent Control Act, 1976 (Act No. 80 of 1976).

- (4) If any unit referred to in subsection (1) is controlled premises as contemplated therein and the lessee is 65 years old or older and his monthly income does not exceed the maximum amount of income from time to time mentioned in any proclamation issued under section 52 (1) of the Rent Control Act, 1976 (Act No. 80 of 1976), for lessees of premises in respect of which rent control is in terms of that section established by such proclamation, such unit may, as long as such lessee continues to occupy the unit and his income does not exceed such maximum amount, only be offered for sale or sold by a developer to that lessee.
- (5) Any contract of purchase and sale concluded contrary to the provisions of subsection (1), (2) or (4) shall be void, and the provisions of section 8A (3) shall apply *mutatis mutandis* in respect of any such void contract.
- (6) A developer who –
 - (a) commits an act which, if it were not for the provisions of subsection (5), would have constituted the sale of a unit contrary to the provisions of subsection (1), (2) or (4); or
 - (b) contravenes any provision of subsection (3),shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

Amendment of section 10 of Act 66 of 1971.

10. Section 10 of the principal Act is hereby amended by the substitution in subsection (2) for the words "a deeds registry's" of the words "the deeds registry's".

Amendment of section 11 of Act 66 of 1971, as amended by section 2 of Act 54 of 1980.

11. Section 11 of the principal Act is hereby amended –
 - (a) by the substitution in subsection (1) for the first phrase of paragraph (b) of the following phrase: "the registrar shall register any notarial lease of a unit or an undivided share in a unit and any notarial cancellation or modification of such a lease by means of an endorsement made by him on the sectional title deed in the prescribed manner;"
 - (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph: "(c) the registrar shall register any sectional mortgage bond whereby a unit or an undivided share in a unit or land, held under a sectional title deed, or a registered lease or sub-lease of a unit or an undivided share in a unit or such land, or any registered real right in or over any such unit or undivided share in a unit or land, is hypothecated, and any cession, cancellation or modification of such a bond, by means of an endorsement made by him on the sectional title deed or on the registered lease or sub-lease or bond or other deed in the prescribed manner;"
 - (c) by the substitution in paragraph (d) of subsection (1) for the words preceding the proviso of the following words: "the registrar shall register any other real right (which is embodied in a notarial deed) in or over a unit or an undivided share in a unit or land, held under a sectional title deed, and any notarial cancellation or modification of such a real right, by means of an endorsement made by him in the prescribed manner on the sectional title deed;"
 - (d) by the substitution for subsection (3) of the following subsection: "(3) When transfer of a unit or an undivided share in a unit is passed in pursuance of a will by which such unit or undivided share in a unit has been bequeathed to any person subject to a usufruct or other limited interest such as a fideicommissum, the endorsement which the registrar is required to make on the relevant sectional title deed shall contain the name of the beneficiary and shall state that the beneficiary takes transfer subject to the terms and conditions of the will."

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- (e) by the deletion of paragraph (c) of subsection (4);
- (f) by the addition to subsection (4) of the following subparagraph:
 - “(iii) if the transferor is a developer, an affidavit by the developer wherein it is declared whether the relevant unit is a unit to which the provisions of section 8B apply or not and, if those provisions so apply, that the transfer is effected in terms of a contract of purchase and sale which is not contrary to any provision of that section.”; and
- (g) by the substitution in subsection (9) for the words “a deeds registry” of the words “the deeds registry”.

*Insertion of section
11A in Act 66 of
1971.*

12. The following section is hereby inserted in the principal Act after section 11:

*“Transfer of undivided
shares pursuant to time-
sharing development
schemes.*

11A. (1) When a sectional title register has been opened and the relevant sectional plan has been registered pursuant to a time-sharing development scheme, ownership in an undivided share in a unit shall be transferred pursuant to such a scheme, subject to the provisions of section 14, by the issuing in the prescribed form of a certificate of registered sectional title in respect of the undivided share in favour of the transferee.

- (2) (a) A sectional title deed referred to in subsection (1) shall specify, subject to the provisions of this section, in the prescribed manner the recurrent period of time during which the owner of the undivided share held thereunder shall be entitled annually to the exclusive occupation or use of the relevant unit.
- (b) An undivided share in a unit referred to in subsection (1) shall be expressed, in a sectional title deed issued under this section, as a fraction comprising the number of days on which the relevant owner of that undivided share shall be entitled annually to the recurrent exclusive use or occupation of the unit concerned, over the figure 365 as denominator: Provided that in computing the number of such days the twenty-ninth day of February in a leap year shall in no case be taken into consideration.
- (3) Simultaneously with the first issue under any scheme of the first sectional title deed in terms of subsection (1) to the owner of an undivided share in a unit –
 - (a) the developer shall lodge a certificate in the prescribed form with the relevant deeds registry in which shall be specified the recurrent period of time, being not less than a period of time prescribed by regulation for purposes of this paragraph, during which the body corporate concerned shall be entitled annually to the exclusive use or occupation of every unit in the scheme separately, for purposes of maintenance thereof and for any other purpose connected therewith; and
 - (b) ownership in an undivided share in every unit in the scheme, indicated in every relevant sectional title deed in accordance with subsection (2) in respect of the recurrent period of time specified in the certificate mentioned in paragraph (a) of this subsection shall –
 - (i) in the case of a unit in respect of which the said first sectional title deed is being issued; and
 - (ii) in the case of every other unit, in respect of which the first sectional title deed has not been issued,be transferred in accordance with subsection (1) to the body corporate concerned by the developer.
- (4) (a) Any transfer by an owner of an undivided share in a unit, contemplated in this section, of a fraction of his share shall be effected by the issuing in the prescribed form of a certificate of registered sectional title in respect of the relevant fraction

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in favour of the transferee, and of such a certificate in respect of the remaining fraction retained by the transferor concerned, in his favour, which certificates shall specify in the prescribed manner the recurrent periods of time, respectively, during which the respective owners shall be entitled annually to the exclusive occupation or use of the relevant unit, and shall indicate the relevant undivided shares in accordance with subsection (2) (b).

- (b) Sectional title deeds contemplated in paragraph (a) shall supersede the existing sectional title deed under which the transferor concerned held ownership in his undivided share.
- (5) A registrar shall make the required endorsements on the documents and sectional title deeds concerned and such entries in records or registers in his office as may be necessary to reflect any transfers or supersessions in terms of this section.
- (6) The provisions of section 11 (1) (a) shall *mutatis mutandis* apply to the transfer of the whole of an undivided share in a unit, contemplated in this section, which is held separately under a sectional title deed.
- (7) No provision of this section, and no other provisions of this Act, shall as from the date of commencement of the Sectional Titles Amendment Act, 1984, be construed as affecting the continued validity of any development scheme based on the alienation of undivided shares in units and on allocation in the rules on a time-sharing basis of periods of exclusive occupation or use of units to the holders of those undivided shares, and which otherwise complies with the applicable provisions of this Act, or as precluding any developer after that date from establishing any such development scheme, from having it approved or from applying for the opening of a sectional title register in respect of the relevant land and building or buildings and the registration of the relevant sectional plan, or from disposing of such undivided shares thereunder."

Substitution of section 14 of Act 66 of 1971. 13. The following section is hereby substituted for section 14 of the principal Act:

"Transfer of mortgaged unit, cession of mortgaged lease or real right, or transfer of mortgaged common property or land.

14. The provisions of sections 56 and 57 of the Deeds Registries Act shall apply *mutatis mutandis* with reference to the transfer of any mortgaged unit or undivided share in a unit, the cession of any mortgaged lease of a unit or undivided share in a unit, the cession of any mortgaged real right in or over a unit or an undivided share in a unit, and the transfer under section 13 or 37 of any mortgaged common property or land or an undivided share therein."

Amendment of section 26 of Act 66 of 1971, as amended by section 23 of Act 59 of 1980.

14. Section 26 of the principal Act is hereby amended —

- (a) by the substitution for subsection (1) of the following subsection:

"(1) The developer shall, subject to the provisions of section 11A, be the owner of any section in respect of which the ownership is not held by any other person, and the quota of such section or, if there is more than one such section, the total of the quotas of such sections, shall determine the share of the developer in the common property."; and

- (b) by the deletion of paragraph (c) of subsection (4).

Amendment of section 28 of Act 66 of 1971.

15. Section 28 of the principal Act is hereby amended —

- (a) by the substitution for subsection (1) of the following subsection:

"(1) With effect from the date on which any person other than the developer becomes an owner of a unit or of an undivided share in a unit in a building, there shall be deemed to be established for that building a body corporate of which the developer and such person are members, and every person who thereafter becomes an owner of a unit, or of any undivided share, or a fraction thereof, in a unit, in that building, shall be a member of that body corporate";

and

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- (b) by the substitution in subsection (2) for the words preceding the first proviso of the following words:

"The developer shall cease to be a member of the body corporate when he ceases to have a share in the common property as contemplated in section 26 (2), and any other member of the body corporate shall cease to be a member thereof when he ceases to be the owner of a unit or of an undivided share, or a fraction thereof, in a unit referred to in subsection (1), in the building in question;"

Amendment of section 29 of Act 66 of 1971.

16. Section 29 of the principal Act is hereby amended by the addition of the following paragraph to subsection (1):

"(n) in respect of a building involved in any development scheme, to maintain, subject to the rules pertaining to the building and the provisions of this Act, the sections and such fixtures and fittings used in connection therewith as specified in the rules, in a state of good and serviceable repair."

Amendment of section 30 of Act 66 of 1971.

17. Section 30 of the principal Act is hereby amended —

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) to establish for administrative expenses a fund sufficient in the opinion of the body corporate for the repair, upkeep, control, management and administration of the common property, for the payment of rates and taxes and other local authority charges on the building and land and any charges for the supply of electric current, gas, water, fuel and sanitary and other services to the building and land and any premiums of insurance, and for the performance of the duties referred to in section 29 (1) (n), and for the discharge of any duty or other obligation of the body corporate;" and

- (b) by the addition to subsection (1) of the following paragraph:

"(p) to enter into an agreement in respect of a building involved in a time-sharing development scheme, with the owners of undivided shares in a unit —

(i) as may be necessary to enable the body corporate to perform its duties in terms of section 29 (1) (n), should circumstances so require, during a period of time other than the period specified in respect of that body corporate in the relevant certificate referred to in section 11A (3) (a); and

(ii) regarding the letting of units for the benefit of the owners during periods of time when the owners are entitled under their sectional title deeds to the occupation or use of the units, but during which they are unwilling or unable to exercise such rights."

Amendment of section 32 of Act 66 of 1971.

18. Section 32 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) permit any person authorized in writing by the body corporate, at all reasonable hours on notice (except in case of emergency when no notice shall be required), to enter his section for the purpose of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts existing in the section and capable of being used in connection with the enjoyment of any other section or common property, or for the purpose of maintaining, repairing or renewing common property or for purposes of the performance by the body corporate of its duties in terms of section 29 (1) (n) of this Act, or for the purpose of ensuring that the provisions of this Act and the rules are being observed;"

Amendment of section 40 of Act 66 of 1971, as amended by section 39 of Act 57 of 1975 and section 23 of Act 59 of 1980.

19. Section 40 of the principal Act is hereby amended —

(a) by the deletion in that part of subsection (1) preceding paragraph (a) of the expression "after consultation with the deeds registries regulations board established under section 9 of the Deeds Registries Act";

(b) by the substitution in paragraph (a) of subsection (1) for the words "a registrar" of the words "the registrar";

(c) by the substitution in paragraphs (b), (c), (d) and (g) of subsection (1) for the words "a deeds registry" of the words "the deeds registry";

(d) by the substitution in paragraph (f) of subsection (1) for the words "any deeds registry" of the words "the deeds registry";

(e) by the insertion in subsection (1) after paragraph (kA) of the following paragraphs:

"(kB) the specification in a sectional title deed of the recurrent period of time referred to in section 11A (2) (a);

SECTIONAL TITLES AMENDMENT ACT, 1984

- (kC) the specification in a certificate contemplated in section 11A (3) (a) of the recurrent period of time referred to in that section;";
- (f) by the insertion after subsection (1) of the following subsection:
"(1A) The Minister may make regulations regarding the particulars to be furnished by a developer in a certificate referred to in section 4 (2A) (a) (ii).";
- and
- (g) by the deletion of subsection (2).

Amendment of section 41 of Act 66 of 1971.

20. Section 41 of the principal Act is hereby amended by the substitution for the words "a deeds registry" and "registrar concerned" of the words "the deeds registry" and "registrar" respectively.

Amendment of section 42 of Act 66 of 1971.

21. Section 42 of the principal Act is hereby amended by the substitution for the words "a deeds registry" of the words "the deeds registry".

Repeal of section 43 of Act 66 of 1971.

22. Section 43 of the principal Act is hereby repealed.

Substitution of section 44 of Act 66 of 1971.

23. The following section is hereby substituted for section 44 of the principal Act:
"Short title. 44. This Act shall be called the Sectional Titles Act, 1971."

Amendment of long title of Act 66 of 1971.

24. The long title of the principal Act is hereby amended by the deletion of the words "to apply this Act to the territory of South-West Africa".

Short title and commencement.

25. (1) This Act shall be called the Sectional Titles Amendment Act, 1984, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.
(2) Different dates may under subsection (1) be fixed in respect of different provisions of this Act.

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DEPARTMENT OF JUSTICE, POLICE AND PRISONS

GOVERNMENT NOTICE NO. 14

SECTIONAL TITLES AMENDMENT ACT, 1984
(ACT NO. 45 OF 1984)