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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1410.

28 June 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 78 of 1985: Share Blocks Control Amendment Act, 1985.

No. 1410.

28 Junie 1985

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 78 van 1985: Wysigingswet op die Beheer van Aandeelblokke, 1985.

Act No. 78, 1985

SHARE BLOCKS CONTROL AMENDMENT ACT, 1985

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Share Blocks Control Act, 1980, so as to provide for the furnishing by share block companies of information regarding share block schemes to certain lessees; and to regulate the sale of shares conferring a right to or an interest in the use of immovable property occupied by certain lessees; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 19 June 1985.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Insertion of sections 11A and 11B in Act 59 of 1980.

1. The following sections are hereby inserted in the Share Blocks Control Act, 1980, after section 11:

"Furnishing of information regarding share block schemes to certain lessees.

- 11A.** (1) If the immovable property in respect of which a share block scheme is to be brought into operation is a building of which one or more than one part is wholly or partially let for residential purposes, the share block scheme may not be so brought into operation unless—
- (a) every lessee of every such part which is leased for such residential purposes has been notified in writing by the share block company concerned, by letter delivered either personally or by registered post, of a date, at least 21 days after the date of the notice, of a meeting of such lessees, to be held in the building in question or in another building situated within a reasonable distance from the first-mentioned building, at which a representative of the share block company intends to be available to provide the lessees with—
- (i) such particulars of the proposed share block scheme as they may reasonably require from the share block company; and
- (ii) information regarding their rights as set out in section 11B; and
- (b) a meeting contemplated in paragraph (a) has been held and a representative of the share block company has been available thereat to provide the particulars contemplated in the said paragraph, and has answered all reasonable questions put to the representative of the share block company by interested lessees personally or through their representatives.
- (2) The letter referred to in subsection (1) shall be accompanied by a copy of the use agreement mentioned in section 7 (5).

ALGEMENE VERDUIDELIKENDE NOTA:

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die bepalinge van die Wet op die Beheer van Aandeleblokke, 1980, ten einde voorsiening te maak vir die verskaffing deur aandeleblokmaatskappye van inligting aangaande aandeleblokskemas aan sekere huurders; en die verkoop te reël van aandele wat 'n reg op of belang in die gebruik van vaste eiendom wat deur sekere huurders bewoon word, verleen; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 19 Junie 1985.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Die volgende artikels word hierby in die Wet op die Beheer van Aandeleblokke, 1980, na artikel 11 ingevoeg:

Invoeging van artikels 11A en 11B in Wet 59 van 1980.

- 5 "Verskaffing van inligting aangaande aandeleblokskemas aan sekere huurders.
- 10 **11A.** (1) Indien die vaste eiendom ten opsigte waarvan 'n aandeleblokskema in bedryf gebring staan te word 'n gebou is waarvan een of meer gedeeltes in die geheel of gedeeltelik vir woondoel-eindes verhuur word, mag die aandeleblokskema nie aldus in bedryf gebring word nie tensy—
- 15 (a) elke huurder van elke sodanige gedeelte wat vir bedoelde woondoel-eindes verhuur word deur die betrokke aandeleblokmaatskappy skriftelik, per brief wat of persoonlik of per geregistreerde pos afgelewer is, in kennis gestel is van 'n datum, minstens 21 dae na die datum van die kennisgewing, van 'n vergadering van sodanige huurders, wat gehou moet word in die betrokke gebou of in 'n ander gebou wat binne 'n redelike afstand van eersgenoemde gebou geleë is, waarop 'n verteenwoordiger van die aandeleblokmaatskappy voornemens is om beskikbaar te wees om die huurders te voorsien van—
- 20 (i) die besonderhede van die beoogde aandeleblokskema wat hulle redelikerwys van die aandeleblokmaatskappy mag verlang; en
- 25 (ii) inligting aangaande hul regte soos in artikel 11B uiteengesit; en
- 30 (b) 'n vergadering beoog in paragraaf (a) gehou is en 'n verteenwoordiger van die aandeleblokmaatskappy daarop beskikbaar was om die besonderhede bedoel in genoemde paragraaf te verskaf, en alle redelike vrae wat belanghebbende huurders self of deur hul verteenwoordigers aan die verteenwoordiger van die aandeleblokmaatskappy gerig het, beantwoord het.
- 35 (2) Die brief in subartikel (1) bedoel, moet vergesel gaan van 'n voorbeeld van die gebruiksooreen-koms in artikel 7 (5) vermeld.

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Sale of
shares con-
ferring right
to or interest
in use of
parts of
building oc-
cupied by
lessees.

11B. (1) No share of a share block company which confers a right to or an interest in the use of a particular part of a building shall—

- (a) if that part is wholly or partially let for residential purposes; and
- (b) if that share is to be offered for sale or sold for the first time,

be so offered for sale or sold to any person other than the lessee concerned unless that share has in writing, by letter delivered either personally or by registered post, been offered for sale to the said lessee and the lessee has refused the offer within a period of 90 days or, in the case of a part referred to in paragraph (a) 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, from the date of the offer, or has at the expiration of any such applicable period not accepted the offer.

(2) If a lessee has refused an offer referred to in subsection (1) within the applicable period mentioned in that subsection or has at the expiration of such applicable period not accepted the offer, the share in question 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, be offered for sale or sold to any person other than the lessee at a price lower than that at which it was in terms of subsection (1) offered for sale to the lessee, unless the share in question has at that lower price again been offered for sale to the lessee and he has refused the offer within a period of 60 days from the date thereof, or has at the expiration of that period not accepted the offer.

(3) No person shall—

- (a) when a lessee has in terms of section 11A (a) been notified of the meeting referred to in that section—
 - (i) in the case of a lessee to whom no offer in terms of subsection (1) has been made, so long as that lessee continues to occupy the relevant part of the building in terms of his lease; or
 - (ii) in the case of a lessee to whom an offer in terms of subsection (1) has been made and who has refused or not accepted the offer as contemplated in that subsection, before the date on which the period of 180 days referred to in subsection (2) or, if applicable, the date on which the period of 60 days referred to in the last-mentioned subsection (whichever date is the latest) expires,

require the lessee to vacate the relevant part of the building occupied by him in terms of his lease unless the lessee has failed to pay the rental, or has inflicted material damage to the relevant part or any other part of the building, or has been guilty of conduct which is a nuisance to occupiers of other parts of the building in question;

- (b) in any case contemplated in paragraph (a) (ii), before the date or, if applicable, the latest date referred to in that paragraph, require or permit the lessee concerned to pay an amount of rent

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Verkoop van
aandeel wat
reg op of be-
lang in ge-
bruik van ge-
deelte van
gebou wat
deur huur-
ders bewoon
word, ver-
leen.

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11B. (1) Geen aandeel van 'n aandeelblokmaat-
skappy wat 'n reg op of belang in die gebruik van 'n
bepaalde gedeelte van 'n gebou verleen, mag—

(a) indien daardie gedeelte in die geheel of gedeel-
telik vir woondoeleindes verhuur word; en

(b) indien daardie aandeel vir die eerste maal te
koop aangebied of verkoop staan te word,

aan iemand anders as die betrokke huurder aldus te
koop aangebied of verkoop word nie tensy daardie
aandeel skriftelik, per brief wat of persoonlik of per
geregistreerde pos afgelewer is, aan bedoelde huur-
der te koop aangebied is en die huurder die aanbod
binne 'n tydperk van 90 dae of, in die geval van 'n in-
paragraaf (a) bedoelde gedeelte wat 'n gekontrole-
eerde perseel bedoel in die Wet op Huurbeheer,
1976 (Wet No. 80 van 1976), is en onderworpe is
aan die bepalings van daardie Wet, binne 'n tydperk
van 365 dae, vanaf die datum van die aanbod van die
hand gewys het, of by die verstryking van enige soda-
nige toepaslike tydperk nie aanvaar het nie.

(2) Indien 'n huurder 'n aanbod bedoel in subarti-
kel (1) binne die toepaslike tydperk in daardie subar-
tikel genoem van die hand gewys het of by die ver-
stryking van so 'n toepaslike tydperk nie aanvaar het
nie, mag die betrokke aandeel nie binne 'n tydperk
van 180 dae vanaf die datum waarop die huurder die
aanbod van die hand gewys het of waarop so 'n toe-
paslike tydperk verstryk het, na gelang van die ge-
val, teen 'n laer prys as die prys waarteen dit inge-
volge subartikel (1) aan die huurder te koop
aangebied is, aan iemand anders as die huurder te
koop aangebied of verkoop word nie, tensy die be-
trokke aandeel teen daardie laer prys weer aan die
huurder te koop aangebied is en hy die aanbod binne
'n tydperk van 60 dae vanaf die datum daarvan van
die hand gewys het of by verstryking van daardie tyd-
perk nie aanvaar het nie.

(3) Niemand mag—

(a) wanneer 'n huurder ingvolge artikel 11A (a) in
kennis gestel is van die vergadering in daardie
artikel bedoel—

(i) in die geval van 'n huurder aan wie geen
aanbod ingevolge subartikel (1) gedoen is
nie, solank daardie huurder die betrokke
gedeelte van die gebou ingevolge sy huur-
kontrak bly bewoon; of

(ii) in die geval van 'n huurder aan wie 'n aan-
bod ingevolge subartikel (1) gedoen is en
wat die aanbod soos in daardie subartikel
beoog, van die hand gewys of nie aanvaar
het nie, voordat die datum waarop die in sub-
artikel (2) bedoelde tydperk van 180 dae of,
indien van toepassing, die datum waarop
die in laasgenoemde subartikel bedoelde
tydperk van 60 dae (watter datum ook al
die jongste is) verstryk,

van die huurder vereis om die betrokke gedeelte
van die gebou wat ingevolge sy huurkontrak
deur hom bewoon word, te ontruim nie tensy
die huurder versuim het om die huurgelde te be-
taal, of materiële skade aan die betrokke ge-
deelte of enige ander gedeelte van die gebou
aangerig het, of hom skuldig gemaak het aan ge-
drag wat 'n ergernis is vir die bewoners van an-
der gedeeltes van die betrokke gebou;

(b) in 'n geval beoog in paragraaf (a) (ii), voor die
datum of, indien van toepassing, die jongste da-
tum bedoel in daardie paragraaf, van die be-
trokke huurder vereis of hom toelaat om 'n hoër

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higher than the amount which was payable by the lessee on the date contemplated in subsection (1) on which the lessee refused the offer referred to in that subsection, or on which the applicable period referred to in that subsection expired, as the case may be: 5

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

(4) (a) If any part referred to in paragraph (a) of subsection (1), of a building is controlled premises as contemplated in that subsection and the lessee thereof 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, any share conferring a right to or an interest in the use of that part and which is to be offered for sale or sold as contemplated in paragraph (b) of subsection (1) shall, as long as such lessee continues to occupy that part and his income does not exceed such maximum amount, be so offered for sale or sold to that lessee only. 10 15 20 25

(b) The provisions of paragraph (a) shall *mutatis mutandis* apply in respect of—

- (i) the surviving spouse of a lessee referred to in paragraph (a) who has died; or 30
- (ii) the spouse of a lessee referred to in paragraph (a) who has been divorced or deserted by the lessee, 35

provided the said surviving spouse or spouse occupied the premises in question together with the lessee at the time of the death of the lessee or at the time of the divorce or desertion in question, as the case may be, and continues to occupy the said premises as lessee after the said death, divorce or desertion, and himself satisfies the requirements relating to age and income set in paragraph (a) in respect of the lessee. 40

(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 18 (1) shall apply *mutatis mutandis* in respect of any such void contract. 45

(6) Any person who—

- (a) commits an act which, if it were not for the provisions of subsection (5), would have constituted the sale of a share contrary to the provisions of subsection (1), (2) or (4); or 50
- (b) contravenes any provision of subsection (3), shall be guilty of an offence and liable on conviction to the penalty set out in section 21 (a).” 55

Amendment of section 21 of Act 59 of 1980, as amended by section 2 of Act 33 of 1982.

2. Section 21 of the Share Blocks Control Act, 1980, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) section 5A (1), 8 (3), 9, 11A, 12 or 13, or the provisions of item 2 or 5 of Schedule 1, to a fine not exceeding 1 000 rand or imprisonment for a period not exceeding one year or to both such fine and such imprisonment;” 60

Short title and commencement.

3. This Act shall be called the Share Blocks Control Amendment Act, 1985, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 65

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bedrag aan huurgelde te betaal nie as die bedrag wat deur die huurder betaalbaar was op die datum beoog in subartikel (1) waarop die huurder die aanbod in daardie subartikel bedoel van die hand gewys het, of waarop die toepaslike in daardie subartikel bedoelde tydperk verstryk het, na gelang van die geval:

Met dien verstande dat die bepalinge van hierdie subartikel nie afbreuk doen aan enige toepaslike bepaling van die Wet op Huurbeheer, 1976 (Wet No. 80 van 1976), nie.

(4) (a) Indien 'n in paragraaf (a) van subartikel (1) bedoelde gedeelte van 'n gebou 'n gekontroleerde perseel is soos in daardie subartikel bedoel en die huurder daarvan 65 jaar of ouer is en sy maandelikse inkomste nie meer is nie as die maksimum bedrag van inkomste wat van tyd tot tyd genoem word in enige proklamasie uitgevaardig kragtens artikel 52 (1) van die Wet op Huurbeheer, 1976 (Wet No. 80 van 1976), vir huurders van persele ten opsigte waarvan huurbeheer ingevolge daardie artikel by so 'n proklamasie ingestel word, mag 'n aandeel wat 'n reg op of belang in die gebruik van daardie gedeelte verleen en wat soos in paragraaf (b) van subartikel (1) beoog, te koop aangebied of verkoop staan te word, solank daardie huurder daardie gedeelte bewoon en sy inkomste bedoelde maksimum bedrag nie oorskry nie, slegs aan daardie huurder aldus te koop aangebied of verkoop word.

(b) Die bepalinge van paragraaf (a) is *mutatis mutandis* van toepassing ten opsigte van —

- (i) die agterblywende gade van 'n huurder bedoel in paragraaf (a) wat oorlede is; of
- (ii) die gade van 'n huurder bedoel in paragraaf (a) wat van die huurder geskei is of deur die huurder verlaat is,

mits bedoelde agterblywende gade of gade ten tyde van die dood van die huurder of ten tyde van die betrokke egskeiding of verlating, na gelang van die geval, die betrokke perseel saam met die huurder bewoon het en na bedoelde dood, egskeiding of verlating bedoelde perseel as huurder bly bewoon en self voldoen aan die vereistes betreffende ouderdom en inkomste in paragraaf (a) ten opsigte van die huurder gestel.

(5) 'n Koopkontrak in stryd met die bepalinge van subartikel (1), (2) of (4) aangegaan, is nietig, en die bepalinge van artikel 18 (1) is *mutatis mutandis* ten opsigte van so 'n nietige kontrak van toepassing.

(6) Iemand wat —

(a) 'n handeling verrig wat, as dit nie vir die bepalinge van subartikel (5) was nie, die verkoop van 'n aandeel in stryd met die bepalinge van subartikel (1), (2) of (4) sou uitgemaak het; of

(b) 'n bepaling van subartikel (3) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die straf in artikel 21 (a) vermeld."

2. Artikel 21 van die Wet op die Beheer van Aandeleblokke, 1980, word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

"(b) artikel 5A (1), 8 (3), 9, 11A, 12 of 13, of die bepalinge van item 2 of 5 van Bylae 1, met 'n boete van hoogstens 1 000 rand of gevangenisstraf vir 'n tydperk van hoogstens een jaar of met daardie boete sowel as daardie gevangenisstraf;"

Wysiging van artikel 21 van Wet 59 van 1980, soos gewysig deur artikel 2 van Wet 33 van 1982.

3. Hierdie Wet heet die Wysigingswet op die Beheer van Aandeleblokke, 1985, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

Kort titel en inwerkingtreding.

