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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 604. 30 Maart 1988

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

No. 26 van 1988: Wysigingswet op die Beheer van Aandeelblokke, 1988.

No. 604. 30 March 1988

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

No. 26 of 1988: Share Blocks Control Amendment Act, 1988.

Wet No. 26, 1988

WYSIGINGSWET OP DIE BEHEER VAN AANDELEBLOKKE, 1988

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op die Beheer van Aandeleblokke, 1980, ten einde voorsiening te maak dat die toestemming van die Minister van Landbou verkry moet word vir die bedryf van aandeleblokskemas op landbouggrond; die verpligtinge van 'n aandeleblokontwikkelaar in verband met die opening van 'n deeltitelregister te reël; die verkoop van aandele wat 'n reg op of 'n belang in die gebruik van vaste eiendom wat deur sekere huurders bewoon word, verleen, verder te reël; en die aanspreeklikheid vir skade in geval van 'n versuim om die vaste eiendom van 'n aandeleblokmaatskappy te verseker, verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Maart 1988.)*

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

Vervanging van artikel 5 van Wet 59 van 1980

1. Artikel 5 van die Wet op die Beheer van Aandeleblokke, 1980 (hierna die Hoofwet genoem), word hierby deur die volgende artikel vervang: 5

“Beperkings op bedryf van aandeleblokskema

5. (1) Geen aandeleblokskema mag bedryf word nie ten opsigte van—

(a) landbouggrond soos omskryf in artikel 1 van die Wet op die Onderverdeling van Landbouggrond, 1970 (Wet No. 70 van 1970), tensy skriftelike toestemming vir die verkoop of verlening van 'n reg op 'n 10
deel van sodanige landbouggrond vooraf deur of die eienaar of die voornemende koper van sodanige landbouggrond by die Minister van Landbou verkry is; en

(b) ander vaste eiendom waarop na die inwerkingtreding van hierdie Wet 'n gebou, volgens wet, in stryd met 'n goedgekeurde of 15
voorgenome dorpsaanlegskema opgerig is.

(1A) By die toepassing van paragraaf (a) van subartikel (1) is die bepalinge van artikel 4 (1) (a) (ii) en (b), (2), (3) en (4) van die in daardie paragraaf genoemde Wet *mutatis mutandis* van toepassing.

(2) Die bepalinge van paragraaf (b) van subartikel (1) geld nie ten 20
opsigte van 'n gebou nie ten opsigte waarvan, voor die datum waarop die aandeleblokskema in werking gestel word, by die Registrateur ingelewer is die voorgeskrewe vorm waarop 'n argitek soos omskryf in artikel 1 van die Wet op Argitekte, 1970 (Wet No. 35 van 1970), of 'n persoon wat as
'n landmeter geregistreer is kragtens artikel 10 van die Landmetersregi- 25
strasiewet, 1950 (Wet No. 14 van 1950), gesertifiseer het dat bouplanne ten opsigte daarvan goedgekeur is kragtens die wette op die oprigting van geboue op die betrokke vaste eiendom en dat die gebou ooreenkomstig daardie planne opgerig is.”

SHARE BLOCKS CONTROL AMENDMENT ACT, 1988

Act No. 26, 1988

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Share Blocks Control Act, 1980, so as to provide that the consent of the Minister of Agriculture shall be obtained for the operation of share block schemes on agricultural land; to regulate the duties of a share block developer in connection with the opening of a sectional title register; to further regulate the sale of shares conferring a right to or an interest in the use of immovable property occupied by certain lessees; and to further regulate the liability for damages in case of a failure to insure the immovable property of a share block company; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 21 March 1988.)*

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

Substitution of section 5 of Act 59 of 1980

1. The following section is hereby substituted for section 5 of the Share Blocks 5 Control Act, 1980 (hereinafter referred to as the principal Act):

“Restrictions on operation of share block scheme

5. (1) No share block scheme shall be operated in respect of—

(a) agricultural land as defined in section 1 of the Subdivision of
Agricultural Land Act, 1970 (Act No. 70 of 1970), unless consent for
the sale or the granting of a right to a portion of such agricultural
land has previously been obtained in writing from the Minister of
Agriculture by either the owner or the prospective buyer of such
agricultural land; and

(b) other immovable property upon which, after the commencement of
this Act, a building is, according to any law, erected in conflict with
an approved or a proposed town planning scheme.

(1A) For the purposes of paragraph (a) of subsection (1) the provisions
of section 4 (1) (a) (ii) and (b), (2), (3) and (4) of the Act mentioned in
that paragraph shall apply *mutatis mutandis*.

(2) The provisions of paragraph (b) of subsection (1) shall not apply in
respect of a building in respect of which, prior to the date upon which the
share block scheme is put into operation, there has been lodged with the
Registrar the prescribed form on which an architect as defined in section
1 of the Architects' Act, 1970 (Act No. 35 of 1970), or a person registered
as a land surveyor under section 10 of the Land Surveyors' Registration
Act, 1950 (Act No. 14 of 1950), has certified that building plans in respect
thereof have been approved under the laws relating to the erection of
buildings upon the immovable property in question, and that the building
has been erected in accordance with those plans.”

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WYSIGINGSWET OP DIE BEHEER VAN AANDELEBLOKKE, 1988

Invoeging van artikel 8A in Wet 59 van 1980

2. Die volgende artikel word hierby in die Hoofwet na artikel 8 ingevoeg:

“Verpligtinge van aandeelblokontwikkelaar in verband met opening van deeltitelregister

8A. (1) Wanneer aandele in 'n aandeelblokmaatskappy direk of 5
indirek deur 'n aandeelblokontwikkelaar te koop aangebied word, moet
die aanbod skriftelik vermeld of die aandeelblokmaatskappy van voor-
name is om die opening van 'n deeltitelregister ingevolge artikel 5 van die
Wet op Deeltitels, 1971 (Wet No. 66 van 1971), te bewerkstellig met
betrekking tot die vaste eiendom ten opsigte waarvan die aandeelblok- 10
skema bedryf word of staan te word.

(2) Indien 'n onderneming gegee is om die opening van 'n deeltitelre-
gister te bewerkstellig soos in subartikel (1) beoog en 'n kontrak vir die
verkryging van 'n aandeel aangegaan word, moet die aandeelblokontwik- 15
kelaar binne 14 dae na die ondertekening van die kontrak, die koper
voorsien van 'n onherroeplike en onvoorwaardelike waarborg deur 'n
bank wat anders as voorlopig geregistreer is kragtens die Bankwet, 1965
(Wet No. 23 van 1965), 'n onderlinge bouvereniging wat anders as
voorlopig geregistreer is kragtens die Wet op Onderlinge Bouverenig- 20
gings, 1965 (Wet No. 24 van 1965), 'n bouvereniging wat anders as
voorlopig geregistreer is kragtens die Wet op Bouverenigings, 1986 (Wet
No. 82 van 1986), of 'n geregistreerde versekeraar soos omskryf in artikel
1 van die Versekeringswet, 1943 (Wet No. 27 van 1943), waarkragtens
genoemde bank, onderlinge bouvereniging, bouvereniging of verseke- 25
raar onderneem om die totale uitgawe te betaal ten einde die opening
van genoemde deeltitelregister te bewerkstellig indien die opening van
genoemde register nie binne 'n tydperk in genoemde waarborg vermeld,
bewerkstellig word nie.

(3) 'n Koper of verkoper wat gedeeltelik of in die geheel geprester het
kragtens 'n kontrak vir die verkryging van 'n aandeel het, as daar in sy 30
geval nie aan die bepalinge van subartikel (2) voldoen is nie, die reg om
wat hy kragtens die kontrak geprester het, van sy teenparty terug te
vorder, en—

(a) die koper kan daarbenewens van die verkoper vorder—

- (i) rente teen 12 persent per jaar of teen die koers wat die Minister 35
van tyd tot tyd vir die doeleindes van hierdie artikel by regulasie
voorskryf, op enige betaling kragtens die kontrak gedoen, vanaf
die datum van betaling tot die datum van verhaal daarvan; en
- (ii) redelike vergoeding vir uitgawes deur hom aangegaan, met of 40
sonder magtiging van die aandeelblokmaatskappy, ter behoud
van die vaste eiendom ten opsigte waarvan die aandeelblok-
skema bedryf word, of ten opsigte van verbeterings wat die
markwaarde van daardie vaste eiendom verhoog en deur hom
met die uitdruklike of stilswyende toestemming van daardie 45
maatskappy aangebring is; en

(b) die verkoper kan daarbenewens van die koper vorder—

- (i) redelike vergoeding vir die gebruik wat die koper mag gehad 50
het van die vaste eiendom ten opsigte waarvan die aandeel-
blokskema bedryf word; en
- (ii) vergoeding vir enige skade wat deur die koper of iemand vir wie
se dade of versuime hy uit onregmatige daad aanspreeklik is,
ten opsigte van sodanige vaste eiendom veroorsaak is.”

Wysiging van artikel 11B van Wet 59 van 1980, soos ingevoeg deur artikel 1 van Wet 78 van 1985

3. Artikel 11B van die Hoofwet word hierby gewysig deur paragraaf (a) van 55
subartikel (4) deur die volgende paragraaf te vervang:

“(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

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Insertion of section 8A in Act 59 of 1980

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

“Duties of share block developer in connection with opening of sectional title register

5 **8A.** (1) Whenever shares in a share block company are directly or indirectly offered for sale by a share block developer, the offer shall state in writing whether or not the share block company intends to effect the opening of a sectional title register in terms of section 5 of the Sectional Titles Act, 1971 (Act No. 66 of 1971), in relation to the immovable property in respect of which the share block scheme is or is to be operated.

10 (2) If an undertaking has been given to effect the opening of a sectional title register as contemplated in subsection (1) and a contract for the acquisition of a share is entered into, the share block developer shall, within 14 days of the signing of the contract, furnish the purchaser with an irrevocable and unconditional guarantee by a bank registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965), a mutual building society registered otherwise than provisionally under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), a building society registered otherwise than provisionally under the Building Societies Act, 1986 (Act No. 82 of 1986), or a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), in virtue whereof the said bank, mutual building society, building society or insurer undertakes to pay the total expenditure in order to effect the opening of the said sectional title register if the opening of the said register is not effected within a period specified in the said guarantee.

25 (3) Any purchaser or seller who has performed partially or fully under a contract for the acquisition of a share shall, if the provisions of subsection (2) have not been complied with in his case, be entitled to reclaim from the other party what he has performed under the contract, and—

- 30 (a) the purchaser may in addition claim from the seller—
- 35 (i) interest at 12 per cent per annum or at the rate prescribed from time to time by the Minister by regulation for the purposes of this section, on any payment made under the contract, from the date of payment to the date of recovery thereof; and
- 40 (ii) reasonable compensation for any expenses incurred by him with or without the authority of the share block company, for the preservation of the immovable property in respect of which the share block scheme is operated, or in respect of any improvements which enhance the market value of that immovable property and which were effected by him with the express or implied consent of that company; and
- 45 (b) the seller may in addition claim from the purchaser—
- 50 (i) reasonable compensation for the use that the purchaser may have had of the immovable property in respect of which the share block scheme is operated; and
- (ii) compensation for any damage caused in respect of such immovable property by the purchaser or any person for whose acts or omissions the purchaser is delictually liable.”.

Amendment of section 11B of Act 59 of 1980, as inserted by section 1 of Act 78 of 1985

3. Section 11B of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

- 55 “(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

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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 of aan iemand anders behoudens die bepalinge van subartikel (1) en behoudens die reg van daardie huurder, of sy gade in paragraaf (b) bedoel, om daardie gedeelte van die gebou te bly bewoon solank sy of haar inkomste nie bedoelde maksimum bedrag oorskry nie."

Wysiging van artikel 19 van Wet 59 van 1980

4. Artikel 19 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Indien die maatskappy of 'n lid daarvan skade ly weens 'n versuim om aan die bepalinge van subartikel (1) te voldoen, is die persone wat ten tyde van die versuim [aandeleblokontwikkelaars of] direkteure [of beamptes] van die maatskappy was, gesamentlik en afsonderlik aanspreeklik om die maatskappy of lid, na gelang van die geval, te vergoed vir die skade wat hy gely het."

Kort titel en inwerkingtreding

5. Hierdie Wet heet die Wysigingswet op die Beheer van Aandeleblokke, 1988, en tree in werking op 1 Oktober 1988.

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5 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]** or to any other person subject to the provisions of subsection (1) and subject to the right of that lessee, or his spouse referred to in paragraph (b), to continue to occupy that part of the building for as long as his or her income does not exceed such maximum amount."

Amendment of section 19 of Act 59 of 1980

4. Section 19 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

20 "(2) If the company or any member thereof suffers any damage as a result of a failure to comply with the provisions of subsection (1), the persons who at the time of the failure were **[share block developers or]** directors **[or officers]** of the company, shall be jointly and severally liable to compensate the company or member, as the case may be, for the damage it or he suffered."

Short title and commencement

5. This Act shall be called the Share Blocks Control Amendment Act, 1988, and shall come into operation on 1 October 1988.

