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THE PRESIDENCY

No. 518 14 June 2011

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

No. 8 of 2011: Sectional Titles Schemes Management Act, 2011

IHHOVISI LIKAMONGAMELI

Ino. 518 14 June 2011

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMetho nosewuzoshicilelelwa umphakathi:—

Ino. 8 Ka 2011: Umthetho Wokusingatha Inzenhlelo Zezigceme -2011

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President)
(Assented to 11 June 2011)*

ACT

To provide for the establishment of bodies corporate to manage and regulate sections and common property in sectional titles schemes and for that purpose to apply rules applicable to such schemes; to establish a sectional titles schemes management advisory council; and to provide for matters connected therewith.

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

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INCAZELO EJWAYELEKILE:

- [] Amagama acaciswe ngombhalo ogqamile akubakaki abayisi-
kwele abonisa okukhishwayo emthethweni osebenzayo.
Amagama adwetshelwe ngomugqa ogqamile akhombisa okufa-
kelwayo emthethweni osebenzayo.

*(English text signed by the President)
(Assented to 11 June 2011)*

UMTHETHO

Ukuhlinzekela ngokusungula amagatsha alawula izigceme ukuba asingathe futhi ahambise ngomthetho izigceme kanye nendawo yomphakathi ezinhlelweni zezigceme futhi ngale njongo kusebenze imithetho esebenza kulezo zinhlelo; ukusungula umkhandlu oluleka ngezokuphatha izinhlelo zezigceme; kanye nokuhlinzekela izindaba ezixhumene nawo.

N GAKHO-KE MAWUMISWE iPhalamende laseRiphabhuliki yaseNingizimu Afrika, ngale ndlela elandelayo:—

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Definitions

1. (1) In this Act and the rules, unless the context otherwise indicates—
- “**Advisory Council**” means the Sectional Titles Schemes Management Advisory Council established by section 18;
- “**body corporate**”, in relation to a building and the land in a sectional title scheme, means the body corporate of that building referred to in section 2(1); 5
- “**building**” means a structure of a permanent nature erected or to be erected and which is shown on a sectional plan as part of a scheme;
- “**chief ombud**” means chief ombud as defined in section 1 of the Community Schemes Ombud Service Act, 2010; 10
- “**common property**”, in relation to a scheme, means—
- (a) the land included in the scheme;
- (b) such parts of the building or buildings as are not included in a section; and
- (c) land referred to in section 5(1)(d);
- “**competent authority**” means a person or organisation that has the legally delegated authority or power to perform a designated function; 15
- “**Court**” means the High Court having jurisdiction;
- “**deeds registry**” means a deeds registry as defined in the Deeds Registries Act, 1937 (Act No. 47 of 1937); 20
- “**Department**” means the Department of Human Settlements;
- “**developer**” means a person who is the registered owner of land, situated within the area of jurisdiction of a local municipality, on which is situated or to be erected a building or buildings which he or she has divided or proposes to divide into two or more sections in terms of a scheme, or his or her successor in title and includes, for the purposes of rebuilding any building that is deemed to have been destroyed as contemplated in section 17, the body corporate concerned; 25
- “**development scheme**” means a scheme in terms of which a building or buildings situated or to be erected on land within the area of jurisdiction of a local municipality is or are, for the purposes of selling, letting or otherwise dealing therewith, to be divided into two or more sections; 30
- “**Director-General**” means the Director-General of Human Settlements;
- “**exclusive use area**” means a part or parts of the common property for the exclusive use by the owner or owners of one or more sections;
- “**land**” means the land comprised in a scheme as shown on a sectional plan;
- “**lease**”, for the purposes of section 5(1)(a), means a lease which— 35
- (a) was entered into for a period of not less than 10 years;
- (b) was entered into for the natural life of the lessee or of any other person mentioned in the lease; or
- (c) is renewable at the will of the lessee indefinitely or for periods which, together with the first period, amount in all to not less than 10 years; 40
- “**local municipality**” means local municipality as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- “**Minister**” means the Minister of Human Settlements;
- “**ombud**” means ombud as defined in section 1 of the Community Schemes Ombud Service Act, 2010; 45
- “**owner**”, in relation to a unit or a section or an undivided share in the common property forming part of such unit, means, subject to subsection (5), the person in whose name the unit is registered at a deeds registry in terms of the Sectional Titles Act or in whom ownership is vested by statute, including the trustee in an insolvent estate, the liquidator of a company or close corporation which is an owner, the 50

Izincazelo

1. (1) Kulo Mthetho nasemithethweni, ngaphandle uma ingqikithi ibeka ngenye indlela—

“uMkhandlu wezokuLuleka” uchaza uMkhandlu wezokuLuleka Wezokusingatha Izinhlelo Zezigceme osungulwe ngesigaba se-18; 5

“igatsha elilawula uhlelo lwesigceme”, mayelana nesakhiwo kanye nomhlaba ohlelweni lwesigceme, lichaza igatsha elilawula uhlelo lwesigceme elishiwo esigatsheni sesi-2(1);

“isakhiwo” sichaza isakhiwo esakhiwe ngokugcwele noma esizokwakhiwa esivezwe ohlelweni lwesigceme njengengxenyane yohlelo; 10

“umphenyi omkhulu wezikhhalazo” uchaza umphenyi omkhulu wezikhhalazo ozimele njengoba kuchaziwe esigatsheni soku-1 soMthetho Wophiko Oluphenya Ngezikhhalazo Zezinhlelo Zomphakathi Oluzimele, wezi-2010;

“indawo yomphakathi”, ohlelweni, ichaza—

(a) indawo esohlelweni; 15

(b) lezo zingxenyane zesakhiwo noma zezakhiwo ezingekho esigcemeni; futhi

(c) indawo eshiwo esigatsheni sesi-5(1)(d);

“onegunya” uchaza umuntu noma inhlangano ngokomthetho enikezelwe igunya noma amandla okwenza umsebenzi oqokiwe;

“iNkantolo” ichaza iNkanto ePhakeme enegunya futhi ngokwesigaba se-12, inkantolo kamantshi enegunya; 20

“ihhovisi lokuhlela nokulondoloza amatayitela” lichaza ihhovisi lokuhlela nokulondoloza amatayitela njengoba lichaziwe i-*Deeds Registry Act, 1937 (Act No. 47 of 1937)*;

“uMnyango” uchaza uMnyango Wezindawo Zokuhlala Abantu; 25

“umsunguli othuthukisa ukwakhiwa kwezigceme” uchaza umuntu obhalisiwe ongumnikazi wendawo, engaphansi kwegunya likaMasipala weNdawo, esendaweni noma okuzokwakhiwa kuyona isakhiwo noma izakhiwo ezihlukanisile noma ahlongoza ukuzihlukanisa ngezigceme ezimbili noma ezingaphezulu kwezimbili ngokwemigomo yohlelo, noma omlandelayo esikhundleni futhi kubandakanya igatsha elingamele isigceme ngenjongo yokwakha kabusha isakhiwo esithathwa ngokuthi sadicilelwa phansi njengoba kuveziwe esigatsheni se-17, 30

“uhlelo oluthuthukiswayo” luchaza uhlelo ngokwemigomo yesakhiwo noma yezakhiwo ezakhiwe noma ezizokwakhiwa endaweni engaphansi kwendawo yegunya likamasipala wendawo ngenjongo yokudayisa, ukuqashisa noma ukudayisa ngenye indlela okuzohlukaniswa ngezigceme ezimbili noma ezingaphezulu kwezimbili; 35

“uMqondisi-Jikelele” uchaza uMqondisi-Jikelele: Wezindawo Zokuhlala Abantu; 40

“indawo esetshenziswa ngokukhethekile” ichaza ingxenyane noma izingxenyane zendawo yomphakathi esetshenziswa ngokukhethekile umnikazi noma abanikazi besigceme esisodwa noma ezingaphezulu;

“indawo” ichaza indawo esohlelweni njengoba kuveziwe ohlelweni lwesigceme;

“isivumelwano sokuqasha” ngokwesigaba sesi-5(1)(a) sichaza isivumelwano sokuqasha— 45

(a) esenzelwe isikhathi esingaphezu kweminyaka eyi-10;

(b) esenziwe umqashi ojwayelekile noma omunye umuntu oshiwo esivumelwaneni sokuqasha; noma

(c) esivuselekayo isikhathi esingenamkhawulo ngokwentanto yomqashi noma isikhathi esihlanganiswe nesikhathi sokuqala, esenza iminyaka engekho ngaphansi kwe-10; 50

“umasipala wendawo” uchaza umasipala wendawo njengoba kuchaziwe esigatsheni soku-1 se-*Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000)*; 55

“uNgqongqoshe” uchaza uNgqongqoshe Wezindawo Zokuhlala Abantu;

“umphenyi wezikhhalazo” uchaza umphenyi wezikhhalazo ozimele njengoba kuchaziwe esigatsheni se-*Community Schemes Ombud Service Act, 2011*;

“umnikazi” mayelana neyunithi noma isigceme noma ingxenyane engabiwe endaweni yomphakathi eyakha ingxenyane yaleyo yunithi, ngokwesigatshana sesi-(5), uchaza umuntu okubhaliswe ngaye iyunithi ehhovisi elibhekele ukubhalisa imibhalo ehlobene nempahla ngokwemigomo ye-*Sectional Titles Act*

executor of an owner who has died, or the representative of an owner, who is a minor or of unsound mind, recognised by law, and “owned” and “ownership” have a corresponding meaning;

“**participation quota**”, in relation to a section or the owner of a section, means the percentage determined in accordance with the provisions of section 32(1) or (2) of the Sectional Titles Act in respect of that section for the purposes referred to in section 32(3) of that Act, and shown on a sectional plan in accordance with the provisions of section 5(3)(g) of that Act; 5

“**prescribed**” means prescribed by regulation;

“**quota**”, in relation to a section or the owner of a section, means the participation quota of that section; 10

“**registrar**” means a registrar of deeds as defined in the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“**regulation**” means a regulation made under this Act;

“**rules**”, in relation to a building which is divided into sections and common property, means the management rules and conduct rules referred to in section 10(2)(a) and (b), respectively; 15

“**scheme**” means a development scheme;

“**section**” means a section shown as such on a sectional plan;

“**sectional mortgage bond**” means a mortgage bond hypothecating— 20

(a) a unit or an exclusive use area, land or an undivided share in such unit, area or land held under a separate sectional title deed; or

(b) a registered lease or sub-lease of any such unit, exclusive use area or land or an undivided share in such unit, area or land which when it was entered into, was for a period of not less than 10 years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than 10 years; or 25

(c) any other registered real right in or over any such unit or undivided share in a unit or common property or the rights referred to in sections 25 and 27 of the Sectional Titles Act; 30

“**sectional plan**”, in relation to a scheme, means a plan approved by the Surveyor-General which—

(a) is described as a sectional plan;

(b) shows the building or buildings and the land comprised in the scheme, as divided into two or more sections and common property; and 35

(c) complies with the requirements of section 5 of the Sectional Titles Act, and includes a sectional plan of subdivision, consolidation or extension as provided for in the Sectional Titles Act;

“**Sectional Titles Act**” means the Sectional Titles Act, 1986 (Act No. 95 of 1986), as amended; 40

“**special resolution**” means a resolution—

(a) passed by at least 75% calculated both in value and in number, of the votes of the members of a body corporate who are represented at a general meeting; or

(b) agreed to in writing by members of a body corporate holding at least 75% calculated both in value and in number, of all the votes; 45

“**this Act**” includes regulations;

“**unanimous resolution**” means a resolution—

(a) passed unanimously by all the members of the body corporate at a meeting at which— 50

- noma onikezwe ubunikazi ngokomthetho, kubandakanya owengamele impahla yomuntu esezikweletini, obhekele ukudliwa kwempahla ngokomthetho noma kwenkampani enamalungu alishumi ongumnikazi, umabi wefa womnikazi osewadolula emhlabeni, noma omele umnikazi, oyingane ngokomthetho noma ongaphilile engqondweni, ngokomthetho, futhi **“okuphethwe”** kanye 5
“nobunikazi” kunencazelo efanayo;
“okunqunywe” kuchaza okunqunywe ngezimiso zomthetho;
“isabelo esiyingxenywe” mayelana nesigceme noma nomnikazi wesigceme, sichaza iphesenti elinqunywe ngokulandela imibandela yesigaba sama-32(1) noma 10
sesi-(2) se-*Sectional Titles Act* kuleso sigceme ngezinjongo ezishiwo emibandeleni yesigaba sesi-5(3) salowo Mthetho, futhi sakhonjiswa ohlelweni lwesigceme ngokulandela imibandela yesigaba sesi-5(3) salowo Mthetho;
“okunqunywe” kuchaza okunqunywe ngezimiso zomthetho;
“isabelo” mayelana nesigceme noma nomnikazi wesigceme, sichaza isabelo esiyingxenywe yaleso sigceme; 15
“umgcini wezincwadi ezinesibophezelo ezihambisana nomthetho” uchaza umgcini wezincwadi ezinesibophezelo ezihambisana nomthetho njengoba kuchaziwe i-*Deeds Registries Act, 1937 (Act No. 47 of 1937)*;
“isimiso somthetho” sichaza isimiso somthetho esenziwe ngaphansi kwalo Mthetho; 20
“imithetho”, mayelana nesakhiwo esihlukaniswe izigceme kanye nendawo yomphakathi, ichaza imithetho yokuphatha kanye nemithetho yenqubo yokuziphatha eshiwo esigatsheni sesi-9(2)(a) kanye no-(b), ngokulandelana;
“uhlelo” luchaza uhlelo oluthuthukiswayo;
“isigceme” sichaza isigceme esikhonjisiwe ohlelweni lwesigceme; 25
“isivumelwano sebhondi yesigceme” sichaza isivumelwano sebhondi eyisibambiso—
(a) seyunithi noma sendawo esetshenziswa ngokukhethekile, indawo umhlaba noma isabelo esingabiwe kuleyo yunithi, indawo engaphansi kwetatitela lesigceme elisezeni; noma 30
(b) isivumelwano sokuqashisa esibhalisiwe noma isivumelano esihambisana nokuqashisa saleyo yunithi, indawo esetshenziswa ngokukhethekile noma umhlaba noma ingxenywe engabiwe kuleyo yunithi, indawo noma umhlaba ngesikhathi kwenziwa isivumelwano kwakungeyesikhathi esingekho ngaphansi kweminyaka eyi-10 noma uma oqashile esaphila noma omunye 35
umuntu oveziwe esivumelwaneni sokuqashisa, noma esingavuselelwa ngezikhathi ezahlukene ngentando yomqashi esikhathi esingabekelwe mkhawulo noma isikhathi uma sesihlanganisiwe naleso sokuqala siba esingekho ngaphansi kweminyaka yi-10; noma
(c) amanye amalungelo omhlaba abhalisiwe noma ngaleyo yunithi noma 40
ingxenywe engabiwe yeyunithi noma endaweni yomphakathi noma amalungelo ashiwo esigatsheni sama-25 kanye nesama-27 se-*Sectional Titles Act*;
“uhlelo lwesigceme” mayelana nohlelo, luchaza uhlelo olugunyazwe uMklamimihlaba-Jikelele olu—
(a) nqunywe njengohlelo lwesigceme; 45
(b) khombisa isakhiwo noma izakhiwo kanye nendawo esohlelweni, ehlukaniswe ngezigceme ezimbili noma ezingaphezulu nendawo yomphakathi; futhi
(c) landela izidingo zesigaba sesi-5 se-*Sectional Titles Act*, futhi oluhlanganisa uhlelo lwesigceme lwezixenyana, okuhlanganisiwe noma okunwetshiwe njengoba kunikeziwe i-*Sectional Titles Act*; 50
“i-Sectional Titles Act” ichaza i-*Sectional Titles Act, 1986 (Act No. 95 of 1986)* njengoba uchitshiyelwe;
“isinqumo esikhethhekile” sichaza isinqumo—
(a) esigunyazwe ngama-75% abalwe ngokuba semqoka nangenani, kumavoti amalungu egatsha elingamele uhlelo lwesigceme amelwe emhlanganweni 55
ojwayelekile; noma
(b) okuvunyelenwe ngaso sabhalwa phansi amalungu egatsha elilawula uhlelo lwesigceme anama-75% uma ebalwa ngokuba semqoka futhi nangenani, kumavoti wonke;
“Io Mthetho” ubandakanya izimiso zomthetho; 60
“isinqumo sabantu bonke”, sichaza isinqumo—
(a) esigunyazwe ngamalungu wonke egatsha elilawula uhlelo lwesigceme emhlanganweni lapho—

- (i) at least 80% calculated both in value and in number, of the votes of all the members of a body corporate are present or represented; and
- (ii) all the members who cast their votes do so in favour of the resolution; or
- (b) agreed to in writing by all the members of the body corporate. 5
- (2) For the purposes of the definition of owner—
- (a) if a unit is subject to a lease for a period of 99 years or longer or for the life of the building or buildings concerned and registered in a deeds registry, the holder of such lease is considered to be the owner for the duration of that lease; and
- (b) if a unit is registered in a deeds registry— 10
 - (i) in the names of both spouses in a marriage in community of property; or
 - (ii) in the name of only one spouse and forms part of the joint estate of both spouses in a marriage in community of property, either one or both of the spouses are considered to be the owner. 15

Bodies corporate 15

2. (1) With effect from the date on which any person other than the developer becomes an owner of a unit in a scheme, there shall be deemed to be established for that scheme a body corporate of which the developer and such person are members, and any person who thereafter becomes an owner of a unit in that scheme is a member of that body corporate. 20

(2) The developer ceases to be a member of the body corporate when he or she ceases to have a share in the common property as contemplated in section 34(2) of the Sectional Titles Act.

(3) Any other member of the body corporate ceases to be a member thereof when such member ceases to be the owner of a unit in the scheme in question. 25

(4) The body corporate must be designated as the “Body Corporate” and must have the name and number contemplated in sections 5(3)(b) and 12(1)(a) of the Sectional Titles Act, respectively.

(5) The body corporate is, subject to the provisions of this Act, responsible for the enforcement of the rules and for the control, administration and management of the common property for the benefit of all owners. 30

(6) The provisions of the Companies Act, 2008 (Act No. 71 of 2008), do not apply in relation to the body corporate.

(7) The body corporate has perpetual succession and is capable of suing and of being sued in its corporate name in respect of— 35

- (a) any contract entered into by the body corporate;
- (b) any damage to the common property;
- (c) any matter in connection with the land or building for which the body corporate is liable or for which the owners are jointly liable;
- (d) any matter arising out of the exercise of any of its powers or the performance or non-performance of any of its duties under this Act or any rule; and 40
- (e) any claim against the developer in respect of the scheme if so determined by special resolution.

(8) (a) A developer must convene a meeting of the members of the body corporate not more than 60 days after the establishment of the body corporate. 45

(b) The agenda for the meeting is as prescribed in the management rules for the meeting.

(c) At such meeting the developer must furnish the members with—

- (i) a copy of the sectional plan;
- (ii) a certificate from the local authority to the effect that all rates due by the developer up to the date of the establishment of the body corporate have been paid; and 50

- (i) ama-80% abaliwe ngokuba semqoka nangenani, kumavoti wonke amalungu egatsha elilawula uhlelo lwesigceme ekhona noma emelwe; futhi
- (ii) wonke amalungu avotayo evotela lesi sinqumo; noma
- (b) okuvunyelwene ngaso sabhalwa phansi ngamalungu wonke egatsha elilawula uhlelo lwesigceme. 5
- (2) Ngokwenzelwano yomnikazi—
 - (a) uma iyunithi iqashisa isikhathi esiyiminyaka engama-99 noma ngaphezulu noma inqobo nje uma sisekhona isakhiwo noma izakhiwo eziqondene futhi ezibhalisiwe ehovisi elibhekele ukubhalisa imibhalo ehlobene nempahla, ophethe lesi sivumelwano sokuqasha uthathwa njengomnikazi, lesi sikhathi saleso sivumelwano sokuqasha; futhi 10
 - (b) uma iyunithi ibhaliswe ehovisi elibhekele ukubhalisa imibhalo ehlobene nempahla;
 - (i) isegameni labo bobabili abalingani abashade umshado ohlanganisa amafa; noma 15
 - (ii) egameni lomlingani oyedwa futhi iyingxenye yempahla ehlanganyelwe abalingani bobabili emshadweni ohlanganisa amafa, oyedwa noma bobabili abalingani bathathwa njengabanikazi. 15

Amagatsha alawula uhlelo lwesigceme 20

2. (1) Kusukela ngosuku lapho noma ngubani ngaphandle komsunguli othuthukisa ukwakhiwa kwezindlu eba umnikazi weyunithi ohlelweni, kufanele kuthathwe ngokuthi kusungulelwe lohlelo igatsha elilawula uhlelo lwesigceme lapho othuthukisa ukwakhiwa kwezindlu kanye nalowo muntu beba amalungu, futhi noma ubani oba umnikazi weyunithi kulolo hlelo uba ilungu legatsha elilawula uhlelo lwesigceme. 25

(2) Umsunguli othuthukisa ukwakhiwa kwezindlu uphelelwa ukuba ilungu legatsha elilawula uhlelo lwesigceme ngesikhathi eyeka ukuba nesheya endaweni yomphakathi njengoba kuveziwe esigatsheni sama-34(2) se-*Sectional Titles Act*.

(3) Noma eliphi ilungu legatsha elilawula uhlelo lwesigceme liphelelwa ukuba ilungu uma liyeka ukuba umnikazi weyunithi yohlelo okukhulunywa ngalo. 30

(4) Igatsha elilawula uhlelo lwesigceme kufanele liqokwe "njengeGatsha Elilawula Uhlelo Lwesigceme" futhi kufanele libe negama kanye nenombolo njengoba kuveziwe ezigatsheni zesi-5(3)(b) kanye ne-12(1)(a) ze-*Sectional Titles Act*, ngokulandelana.

(5) Igatsha elilawula uhlelo lwesigceme, ngokwemibandela yalo Mthetho, libhekele ukubophezela imithetho kanye nokulawula, ukuphatha kanye nokusingatha indawo yomphakathi ukuze kuhlomule bonke abanikazi. 35

(6) Imibandela ye-*Companies Act, 2008 (Act No. 71 of 2008)*, ayisebenzi egatsheni elilawula uhlelo lwesigceme.

(7) Igatsha elilawula uhlelo lwesigceme lisebenza ngokunganawo umkhawulo esikhundleni salo futhi liyakwazi ukuthatha izinyathelo zomthetho futhi lingathathelwa izinyathelo zomthetho egameni lalo lebhizinisi mayelana— 40

- (a) nenkontileka eyenziwe igatsha elilawula uhlelo lwesigceme;
- (b) nomonakalo wendawo yomphakathi;
- (c) noma oluphi udaba oluxhumene nomhlaba noma isakhiwo esingamelwe igatsha elilawula uhlelo lwesigceme noma esibhekelle abanikazi ngokuhlanganyela; 45
- (d) noma oluphi udaba oluyimbangela yokusebenzisa igunya lalo noma ukuqhuba noma ukungenzi eminye imisebenzi yalo ngaphansi kwalo Mthetho noma komunye umthetho; futhi
- (e) noma esiphi isikhhalazo esenziwe kumsunguli othuthukisa ukwakhiwa kwezindlu ohlelweni sinqunywa ngesinqumo esikhethekile. 50

(8) (a) Umsunguli othuthukisa ukwakhiwa kwezindlu kufanele abambe umhlangano namalungu egatsha elilawula uhlelo lwesigceme zingakapheli izinsuku ezingama-60 ngemuva kokusungulwa kwegatsha elilawula uhlelo lwesigceme.

(b) Uhlelo lomhlangano lunjengoba lunqunywe emithethweni yokuphatha umhlangano. 55

(c) Kulo mhlangano umsunguli othuthukisa ukwakhiwa kwezindlu kufanele anikeze amalungu—

- (i) ikhophi yohlelo lwesigceme;
- (ii) isitifiketi esivela kumkhandlu wendawo esiveza ukuthi yonke imali yokuthela okufanele ikhokhwe umsunguli othuthukisa ukwakhiwa kwezindlu kuze kube 60

(iii) proof of revenue and expenditure concerning the management of the scheme from the date of the first occupation of any unit until the date of the establishment of the body corporate.

(9) The developer must pay over to the body corporate any residue referred to in subsection (8)(c)(iii). 5

(10) A developer who fails to comply with subsections (8) and (9) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(11) The developer must promptly on demand pay any moneys due in terms of section 3(1)(c) to the body corporate. 10

(12) Any reference in any law or document to a body corporate established in terms of the Sectional Titles Act must, after the commencement of this Act, be constructed as a reference to a “body corporate” referred to in section 2 of this Act.

Functions of bodies corporate

3. (1) A body corporate must perform the functions entrusted to it by or under this Act or the rules, and such functions include— 15

- (a) to establish and maintain an administrative fund which is reasonably sufficient to cover the estimated annual operating costs—
 - (i) for the repair, maintenance, management and administration of the common property (including reasonable provision for future maintenance and repairs); 20
 - (ii) for the payment of rates and taxes and other local municipality charges for the supply of electricity, gas, water, fuel and sanitary or other services to the building or land;
 - (iii) for the payment of any insurance premiums relating to the building or land; and 25
 - (iv) for the discharge of any duty or fulfilment of any other obligation of the body corporate;
- (b) to establish and maintain a reserve fund in such amounts as are reasonably sufficient to cover the cost of future maintenance and repair of common property but not less than such amounts as may be prescribed by the Minister; 30
- (c) to require the owners, whenever necessary, to make contributions to such funds: Provided that the body corporate must require the owners of sections entitled to the right to the exclusive use of a part or parts of the common property, whether or not such right is registered or conferred by rules, to make such additional contribution to the funds as is estimated necessary to defray the costs of rates and taxes, insurance and maintenance in respect of any such part or parts, including the provision of electricity and water, unless in terms of the rules the owners concerned are responsible for such costs; 35
- (d) to require from a developer who is entitled to extend the scheme in terms of a right reserved in section 25(1) of the Sectional Titles Act, to make such reasonable additional contribution to the funds as may be necessary to defray the cost of rates and taxes, insurance and maintenance of the part or parts of the common property affected by the reservation, including a contribution for the provision of electricity and water and other expenses and costs in respect of and attributable to the relevant part or part; 40 45
- (e) to determine the amounts to be raised for the purposes of paragraphs (a), (b) and (c);
- (f) to raise the amounts so determined by levying contributions on the owners in proportion to the quotas of their respective sections; 50

- usuku lokusungulwa kwegatsha elilawula uhlelo lwesigceme isikhokhiwe; futhi
- (iii) ubufakazi bemali engenayo kanye nezindleko ezimayelana nokusingatha uhlelo kusukela ngosuku lokuqala lokuhlala kuyunithi kuze kube usuku lokusungula igatsha elilawula uhlelo lwesigceme. 5
- (9) Umsunguli othuthukisa ukwakhiwa kwezindlu kufanele akhokhele igatsha elilawula uhlelo lwesigceme imali esele eshiwo esigatshaneni sesi-(8)(c)(iii).
- (10) Umsunguli othuthukisa ukwakhiwa kwezindlu ohluleka ukulandela isigatshana sesi-(8) kanye nesesi-(9) unecala futhi uzobhekana nenhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili noma abhekane nakho kokubili inhlawulo futhi aboshwe. 10
- (11) Umsunguli othuthukisa ukwakhiwa kwezindlu esicelweni esiphocayo kufanele asheshe akhokhe izimali okufanele zikhokhwe ngokwemigomo yesigaba sesi-3(1)(c).
- (12) Noma okuphi okuqondiswe egatsheni elilawula uhlelo lwesigceme elasungulwa ngokwemigomo ye-*Sectional Titles Act*, kunoma omuphi umthetho noma umbhalo, ngemuva kokuqala ukusebenza kwalo Mthetho, kufanele kuthathwe njengokuqondiswe “egatsheni elilawula uhlelo lwesigceme” elishiwo esigatsheni sesi-2 salo Mthetho. 15

Imisebenzi yamagatsha alawula uhlelo lwesigceme

3. (1) Igatsha elilawula uhlelo lwesigceme kufanele lenze imisebenzi elithweswe yona ngalo noma ngaphansi kwalo Mthetho noma ngemithetho, futhi le misebenzi ibandakanya— 20
- (a) ukusungula nokugcina isikhwama sezindleko zokusingatha esanele ukubhekana nezindleko eziqaguliwe zomisebenzi wonyaka—
- (i) sokulungisa, nokunakekela, ukusingathwa kanye nokuphatha indawo yomphakathi (kubandakanya umbandela ozwakalayo wokunakekela kanye nokulungisa esikhathini esizayo); 25
- (ii) ukukhokha imali yokuthela kanye nezintela kanye nezinye izindleko zikamasipala wendawo zokunikezela ngogesi, igesi, amanzi, okokubasa umlilo kanye nezempilo noma olunye usizo esakhiweni noma emhlabeni; 30
- (iii) ukukhokha imali yomshwalense ohambisana nesakhiwo noma nomhlaba; kanye
- (iv) nokuhoxisa umisebenzi noma ukufeza okuthweswe igatsha elilawula uhlelo lwesigceme; 35
- (b) ukusungula nokugcina isikhwama esibekwe eceleni esinesamba esanele ukubhekana nezindleko zokulungisa nokunakekela indawo yomphakathi esikhathini esizayo kodwa kungabi isamba esingaphansi kwaleso esinqunywe uNgqongqoshe; 40
- (c) ukucela abanikazi, uma kunesidingo, ukuba bafake isandla kulezi zikhwama: Inqobo nje uma igatsha elilawula uhlelo lwesigceme kufanele licele abanikazi bezigceme abanikezwe ilungelo lokusebenzisa ngokukhethekile ingxenye noma izingxenye zempahla yomphakathi, noma ngabe leli lungelo lokusebenzisa ngokukhethekile libhalisiwe noma linikezwe ngemithetho, ukwengeza ngalokhu ezikhwameni njengoba kulinganisiwe ngokufanele ukukhokha ingxenye noma zonke izindleko zemali yokuthela kanye nentela, umshwalense kanye nokunakekela leyo ngxenye noma izingxenye, kubandakanya nokuhlinzekela ngogesi kanye namanzi, ngaphandle uma ngokwemigomo yemithetho abanikazi abaqondene bebhekele lezo zindleko; 45
- (d) ukucela umsunguli othuthukisa ukwakhiwa kwezindlu onelungelo lokunweba uhlelo ngokwemigomo yelungelo eligodliwe esigatsheni sama-25(1) se-*Sectional Titles Act*, ukuba afake isandla ngokwengeza okufanele esikhwameni njengoba kufanele kukhokhwe ingxenye noma zonke izindleko zemali yokuthela kanye nentela, umshwalense kanye nokunakekela ingxenye noma izingxenye zendawo yomphakathi ethikamezwe ukukhishelwa eceleni, kubandakanya nemali yokuhlinzekela ngogesi kanye namanzi kanye nezinye izindleko kanye nenani laleyo ngxenye noma izingxenye ezithile futhi nokuhambisana nazo; 50
- (e) ukunquma imali okufanele itholwe ngokwezindima (a), (b) kanye no-(c); 55
- (f) ukuthola isamba esinqunywe ngokuthwesa iminikelo kubanikazi ngokuhambisana nezabelo zezigceme eziqondene nabo; 60

- (g) to open and operate an account with any registered bank or any other financial institution;
 - (h) to insure the building or buildings and keep it or them insured to the replacement value thereof against fire and such other risks as may be prescribed; 5
 - (i) to insure against such other risks as the owners may by special resolution determine;
 - (j) subject to section 17 and to the rights of the holder of any sectional mortgage bond, forthwith to apply any insurance money received by it in respect of damage to the building, in rebuilding and reinstating the building or buildings in so far as this may be effected; 10
 - (k) to pay the premiums on any insurance policy effected by it;
 - (l) to maintain all the common property and to keep it in a state of good and serviceable repair;
 - (m) to comply with any notice or order by any competent authority requiring any repairs to or work in respect of the relevant land or building; 15
 - (n) to comply with any reasonable request for the names and addresses of the persons who are the trustees of the body corporate in terms of the rules or who are members of the body corporate;
 - (o) to notify the chief ombud, the local municipality concerned and the registrar of its domicilium *citandi et executandi*, which is its address for service of any process; 20
 - (p) to ensure compliance with any law relating to the common property or to any improvement of land comprised in the common property;
 - (q) to maintain any plant, machinery, fixtures and fittings used in connection with the common property and sections and to keep them in a state of good and serviceable repair; 25
 - (r) subject to the rights of the local municipality concerned, to maintain and repair including renewal where reasonably necessary, pipes, wires, cables and ducts existing on the land and capable of being used in connection with the enjoyment of more than one section or of the common property or in favour of one section over the common property; 30
 - (s) on the written request of any owner or registered mortgagee of a section, to produce to such owner or mortgagee, or any person authorised in writing by such owner or mortgagee, the insurance policy effected by the body corporate and the receipt for the last premium in respect thereof; and 35
 - (t) in general, to control, manage and administer the common property for the benefit of all owners.
- (2) Liability for contributions levied under any provision of subsection (1), save for special contributions contemplated by subsection (4), accrues from the passing of a resolution to that effect by the trustees of the body corporate, and may be recovered by the body corporate by an application to an ombud from the persons who were owners of units at the time when such resolution was passed: Provided that upon the change of ownership of a unit, the successor in title becomes liable for the pro rata payment of such contributions from the date of change of such ownership. 40 45
- (3) Any special contribution becomes due on the passing of a resolution in this regard by the trustees of the body corporate levying such contribution and may be recovered by the body corporate by an application to an ombud, from the persons who were owners of units at the time when such resolution was passed: Provided that upon the change of ownership of a unit, the successor in title becomes liable for the pro rata payment of such contributions from the date of change of such ownership. 50
- (4) "Special contribution", for the purposes of this section, means any contribution levied under subsection (1) other than contributions which arise from the approval of the estimate of income and expenditure at an annual general meeting of a body corporate, determined to be a contribution to be levied upon the owners during the current financial year. 55

- (g) ukuvula kanye nokusebenzisa i-akhawunti ebhange elibhalisiwe noma nesinye isikhungo sezezimali;
- (h) ukufakela isakhiwo noma izakhiwo umshwalense futhi sigcinwe noma zigcinwe ngaphansi komshwalense oyisamba esingakhokhela umlilo kanye nezinye izingozi ezinganqunywa; 5
- (i) ukufaka umshalense wezinye izingozi abanikazi abangazinquma ngesinqumo esikhethekile;
- (j) ngokwesigaba se-17 kanye namalungelo onesivumelwano ngebhondi yesigceme, ngokushesha akafake isicelo semali yomshwalense esiyitholayo yomonakalo wesakhiwo, ukwakha kabusha kanye nokubuyisela isakhiwo noma izakhiwo ngendlela ezithikamezeke ngayo; 10
- (k) ukukhokha imali yomshwalense walo;
- (l) ukunakekela yonke indawo yomphakathi futhi nokuyigcina isesimweni esihle futhi esilungisekayo;
- (m) ukulandela isaziso noma umyalelo womkhandlu onolwazi ocela kulungiswe noma kusetshenzwe emhlabeni othile noma esakhiweni; 15
- (n) ukulandela isicelo ezizwakalayo samagama kanye namakheli abantu abangamele indawo yegatsha elilawula uhlelo lwesigceme ngokwemigomo yemithetho noma abangamalungu egatsha elilawula uhlelo lwesigceme;
- (o) ukwazisa uMphenyi Omkhulu Wezikhaziso, umasipala wendawo oqondene kanye nonobhala mayelana nekheli lendawo lokuthumela izaziso zomthetho, okuyikheli lalo elizosebenza kunoma oluphi uhlelo; 20
- (p) ukuqikelela ukulandela umthetho ohlobene nendawo yomphakathi noma nokuphuculwa komhlaba oyingxenywe yendawo yomphakathi;
- (q) ukunakekela izitshalo, imishini, okubethelwe esakhiweni, kanye nempahla yasendlini okusetshenziswe ukuxhuma indawo yomphakathi kanye nezigceme futhi kugcinwe kusesimweni esihle futhi esilungisekayo; 25
- (r) ngokwamalungelo amasipala wendawo oqondene, linakekele futhi lilungise (kubandakanya ukuvuselela kabusha uma kunesidingo, amapayipi, ucingo, amakhebula kanye nemihubhe ethwala okuthile esemhlabeni futhi engasetshenziswa ukuxhuma kanye nokuhlomula kwezigceme ezingaphezu kwesisodwa noma indawo yomphakathi noma ukusiza isigceme esisodwa endaweni yomphakathi; 30
- (s) ngesicelo esibhalwe phansi umnikazi noma umbolekisi wemali yebhondi yesigceme esibhalisiwe ukuba liveze kumnikazi noma kumbolekisi wemali yebhondi, noma kunoma ubani ogunyazwe ngokubhalwe phansi ilowo mnikazi noma umbolekisi wemali yebhondi, umshwalense wegatsha elilawula uhlelo lwesigceme kanye nobufakazi bemali yomshwalense yokugcina; futhi 35
- (t) ngokujwayelekile, lilawule, lisingathe futhi lingamele indawo yomphakathi ukuze kuzwe bonke abanikazi. 40
- (2) Isikweletu seminikelo ethweswe ngaphansi kwanoma omuphi umbandela wesigatshana soku-(1), ngaphandle kweminikelo ekhethekile evezwe esigatshaneni sesi-(4), ebangelwe ukugunyaza isinqumo sokukhishwe abangamele indawo yegatsha elilawula uhlelo lwesigceme, ingakhokhwa igatsha elilawula uhlelo lwesigceme ngokufaka isicelo kumphenyi wezikhaziso ozimele ngokwesinyathelo senkantolo (kubandakanya inkantolo kamantshi) yezobulungiswa kulabo bantu ababengabanikazi bamayunithi ngesikhathi kugunyazwa lesi sinqumo. Inqobo nje uma kushintshwa ubunikazi beyunithi, olandela esikhundleni ubhekana naleyo mali eyisilinganiso ekhokhwayo yaleyo minikelo kusukela ngosuku lokushintsha ubunikazi. 45
- (3) Umnikelo okhethekile kufanele ukhokhwe ngesikhathi kugunyazwa isinqumo mayelana nalokhu abangamele indawo yegatsha elilawula uhlelo lwesigceme abathweswe lowo mnikelo futhi ungatholwa igatsha elilawula uhlelo lwesigceme, kulabo bantu ababengabanikazi bamayunithi ngesikhathi kugunyazwa lesi sinqumo: Inqobo nje uma ngesikhathi kushintshwa ubunikazi beyunithi, olandela esikhundleni kuba nguye obhekana nokukhokha leyo ngxenywe yeminikelo kusukela ngosuku lokushintsha ubunikazi. 50
- (4) “Umnikelo okhethekile” ngokwalesi sigaba, uchaza umnikelo othweswe ngaphansi kwesigatshana soku-(1) ngaphandle kweminikelo evele ngokugunyaza isilinganiso semali engenayo kanye nezindleko emhlanganweni wonyaka ojwayelekile wegatsha elilawula uhlelo lwesigceme, onqunyelwe ukuba ube umnikelo ozothweswa abanikazi ngesikhathi sezimali zonyaka wangaleso sikhathi. 60

- (5) The body corporate must, annually or whenever there is a change in levy, certify in writing—
- (a) the amount determined as the contribution of each owner;
 - (b) the manner in which such contribution is payable; and
 - (c) the extent to which such contribution has been paid by each owner. 5
- (6) The body corporate is, for the purposes of effecting any insurance under subsection (1)(h), considered to have an insurable interest for the replacement value of the building and must, for the purposes of effecting any other insurance under that subsection, be considered to have an insurable interest in the subject matter of such insurance. 10

Powers of bodies corporate

4. The body corporate may exercise the powers conferred upon it by or under this Act or the rules, and such powers include the power—
- (a) to appoint such agents and employees as the body corporate may consider fit;
 - (b) when essential for the proper fulfilment of its duties and upon special resolution, to purchase or otherwise acquire, take transfer of, mortgage, sell, give transfer of or hire or let units; 15
 - (c) to purchase, hire or otherwise acquire movable property for the use of owners for their enjoyment or protection or in connection with the enjoyment or protection of the common property; 20
 - (d) where practicable, to establish and maintain on the common property suitable lawns, gardens and recreation facilities;
 - (e) upon special resolution, to borrow moneys required by it in the performance of its functions or the exercise of its powers;
 - (f) to secure the repayment of moneys borrowed by it and the payment of interest thereon, by notarial bond over unpaid contributions whether levied or not, or by mortgaging any property vested in it; 25
 - (g) to invest any moneys of the fund referred to in section 3(1)(a);
 - (h) to enter into an agreement with any owner or occupier of a section for the provision of amenities or services by the body corporate to such section or to the owner or occupier thereof, including, upon special resolution, the right to let a portion of the common property to any such owner or occupier by means of a lease other than a lease contemplated in section 5(1)(a); 30
 - (i) to do all things reasonably necessary for the enforcement of the rules and for the management and administration of the common property. 35

Additional powers of bodies corporate

5. (1) In addition to the body corporate's main functions and powers under sections 3 and 4, the body corporate—
- (a) may, upon unanimous resolution, on direction by the owners and with the written consent of any holder of a right of extension contemplated in section 25 of the Sectional Titles Act, alienate common property or any part thereof, or let the common property or any part thereof under a lease, and thereupon the body corporate may, subject to section 17(1) of the Sectional Titles Act, deal with such common property or such part thereof in accordance with the direction and may execute any deed required for this purpose, including any deed required under the Sectional Titles Act; 40 45
 - (b) may, with the written consent of all the owners as well as the written consent of the mortgagee of each unit in the scheme, alienate, or in terms of the Sectional Titles Act exercise or cede, a right of extension of the scheme by the

- (5) Njalo ngonyaka uma kunoshintsho lwenhlawulo, igatsha elilawula uhlelo lwesigceme kufanele ligunyaze ngokubhalwe phansi—
- (a) isamba esinqunyiwe njengomnikelo womnikazi ngamunye;
 - (b) indlela okuzokhokhwa ngayo lowo mnikelo; kanye
 - (c) nendlela okukhokhwe ngayo umnikelo kumnikazi ngamunye. 5
- (6) Igatsha elilawula uhlelo lwesigceme, ngenjongo yokukhokha umshwalense ngaphansi kwesigatshana soku-(1)(h), kuthathwa ngokuthi linomshwalense wokukhokhela ukubuyisela izinga lesakhiwo futhi, ngenjongo yokusebenzisa omunye umshwalensi ngaphansi kweleso sigatshana, kufanele lithathwe ngokuthi linemali yomshwalense engakhokhwa yilowo mshwalense. 10

Igunya lamagatsha alawula uhlelo lwesigceme

4. Igatsha elilawula uhlelo lwesigceme lingasebenzisa igunya elinikezwe lona ngalo Mthetho noma ngaphansi kwawo noma kwemithetho, futhi lelo gunya libandakanya igunya—
- (a) lokuqoka izithunywa kanye nabasebenzi uma igatsha elilawula uhlelo lwesigceme libona kufanele; 15
 - (b) uma kusemqoka ukuba kufezwe imisebenzi yalo futhi ngesinqumo esikhethekile, lithenge noma lithole ngenye indlela, lithathe ubunikazi, isivumelwano sebhondi, lidayise, lidlulisele ubunikazi noma liqashe noma liqashise ngamayunithi; 20
 - (c) lokuthenga, ukuqasha noma ukuthola impahla ephathekayo ukuba isetshenziswe abanikazi ukuze bathokozele noma bavikeleke noma exhumene nokuzithokozisa noma ukuvikeleka kwendawo yomphakathi;
 - (d) uma kunokwenzeka, lakhe futhi linakekele utshani emagcekeni, ezinsimini kanye nezinto zokugcebeleka endaweni yomphakathi; 25
 - (e) ngesinqumo esikhethekile liboleke imali eliyidingayo ekwenzeni imisebenzi yalo noma ukusebenzisa igunya lalo;
 - (f) liqikelele ukukhokhwa kwemali eliyibolekile kanye nokukhokha inzalo yayo yebhondi ebhalisiwe yeminikelo engakhokhiwe uma ithwesiwe noma ingathwesiwe, noma ngokubolekisa ngendawo elinikezwe yona; 30
 - (g) ukutshala imali yesikhwama eshiwo esigatsheni sesi-3(1)(a);
 - (h) ukwenza isivumelwano nomnikazi noma nohleli esigcemeni ukuze kuhlinzekelwe ngosizo noma ngemisebenzi enikezelwa igatsha elilawula uhlelo lwesigceme kuleso sigceme noma kumnikazi noma kohleli kusona, kubandakanya uma kunesinqumo esikhethekile nelungelo lokuqashisa ngengxenywe yendawo yomphakathi komunye umnikazi noma kohleli khona ngesivumelwano sokuqasha ngaphandle kwalesi esivezwe esigatsheni sesi-5(1)(a); 35
 - (i) ukwenza konke okufanele ukuze kuboshezwe imithetho, kusingathwe futhi kunganyelwe indawo yomphakathi. 40

Amandla angeziwe egatsha elilawula uhlelo lwesigceme

5. (1) Ukwengeza emisebenzini esemqoka yegatsha elilawula uhlelo lwesigceme kanye negunya ngaphansi kwezigaba sesi-3 kanye nesesi-4, igatsha elilawula uhlelo lwesigceme—
- (a) ngesivumelwano sabantu bonke futhi ngomyalelo wabanikazi futhi ngemvume ebhalwe phansi kulowo onelungelo lokunweba elivezwe esigatsheni sama-25 se-*Sectional Titles Act*, lingadlulisela ubunikazi bendawo yomphakathi noma enye ingxenywe yayo, noma liqashise ngendawo yomphakathi noma ngengxenywe yayo engaphansi kwesivumelwano sokuqashisa, futhi ngaleso sikhathi igatsha elilawula uhlelo lwesigceme ngokwesigaba se-17(1) se-*Sectional Titles Act*, lingabhekana naleyo ndawo yomphakathi noma leyo ngxenywe yayo ngokulandela umyalelo futhi lingaqhubeka lenze okudingekayo kulokhu, kubandakanya izenzo ezidingeka ngaphansi kwe-*Sectional Titles Act*; 45
 - (b) ngemvume ebhalwe phansi yomnikazi futhi ngemvume ebhalwe phansi yombolekisi wemali yebhondi yeyunithi ngayinye esohlelweni, linganikezela ngobunikazi, noma ngokwemigomo ye-*Sectional Titles Act*, lingasebenzisa noma liqede ilungelo lokunweba uhlelo ngokwengeza izigceme: Inqobo nje 55

- addition of sections: Provided that an owner or mortgagee may not withhold such approval without good cause in law;
- (c) may, upon unanimous resolution by the owners, enter into a notarial agreement to extend the period stipulated in the condition referred to in section 25(1) of the Sectional Titles Act. 5
 - (d) may, subject to subsection (2), purchase land to extend the common property, if duly authorised thereto in writing by all the owners;
 - (e) may, upon unanimous resolution by the owners, request the delineation and cession of exclusive use rights to particular owners in terms of section 27(2) of the Sectional Titles Act; 10
 - (f) may, upon special resolution by owners, enter into a notarial deed of cancellation of an exclusive use right in terms of section 27(5) of the Sectional Titles Act;
 - (g) may, upon special resolution by the owners, execute on behalf of the owners a servitude or a restrictive agreement burdening the land shown on the relevant sectional plan and may accept on their behalf a servitude or restrictive agreement benefiting such land, as contemplated in section 29 of the Sectional Titles Act; 15
 - (h) must, on application by an owner and upon special resolution by the owners, approve the extension of boundaries or floor area of a section in terms of the Sectional Titles Act; and 20
 - (i) may generally exercise any power and perform any function conferred or imposed on the body corporate in terms of this Act or the Sectional Titles Act.
- (2) Land purchased by a body corporate in terms of subsection (1)(d)—
- (a) must be registered in the name of the body corporate in terms of the Sectional Titles Act and the Deeds Registries Act, 1937 (Act No. 47 of 1937); and 25
 - (b) is considered to be owned by the owners of sections in the building concerned in the same proportion as their participation quota as contemplated in section 26(2) of the Sectional Titles Act.

Meetings of bodies corporate 30

6. (1) The meetings of the body corporate must take place at such time and in such form as may be determined by the body corporate.
- (2) The body corporate must, at least 30 days prior to a meeting of the body corporate where a special resolution or unanimous resolution will be taken, give all the members of the body corporate written notice specifying the proposed resolution, except where the rules provide for shorter notice. 35
- (3) The notice contemplated in subsection (2) must be—
- (a) delivered by hand to a member;
 - (b) sent by pre-paid registered post to the address of a member's section in the relevant scheme; or 40
 - (c) sent by pre-paid registered post to a physical or postal address in the Republic of South Africa that a member has chosen in writing for the purposes of such notice.
- (4) In addition to subsection (3), a notice contemplated in subsection (2) may also be sent to a member by fax or email. 45
- (5) A member may be represented in person or by proxy at such meeting: Provided that a person must not act as a proxy for more than two members.
- (6) When votes are calculated in value, each member's vote is calculated either—
- (a) as the total of the quotas allocated to the sections registered in that member's name; or 50
 - (b) in accordance with a rule made in terms of section 10(2), whichever is applicable.
- (7) When votes are calculated in number, each member has one vote.
- (8) Where the unanimous resolution would have an unfairly adverse effect on any member, the resolution is not effective unless that member consents in writing within seven days from the date of the resolution. 55
- (9) A body corporate or an owner who is unable to obtain a special or unanimous resolution may approach the chief ombud for relief.

- uma ilungu elibolekisa ngemali yebhondi lingeke linqabe ukugunyaza lokho ngaphandle kwezinyathelo ezifanele zomthetho;
- (c) uma sekuthathwe isinqumo sabantu bonke abanikazi bangenza isivumelwano sokuhlenganisa izakhiwo ukuze kunwetshwe isikhathi esibekwe kumbandela oshiwo esigatsheni sama-25(1) se-*Sectional Titles Act*; 5
- (d) ngokwesigatshana sesi-(2), lingathenga umhlaba wokwengeza indawo yomphakathi, uma ligunyaziwe ngokubhalwe phansi kulokhu abanikazi;
- (e) uma abanikazi sebethathe isinqumo esifanayo lingacela kuklanywe imingcele futhi linekezele ngamalungelo okusebenzisa ngokukhethekile kubanikazi abathile ngokwemigomo yesigaba sama-27(2) se-*Sectional Titles Act*; 10
- (f) ngesinqumo sabanikazi bonke, li
- (g) una abanikazi sebethathe isinqumo esikhethekile, lenze isivumelwano sokuhoxisa amalungelo okusebenzisa indawo ngokukhethekile ngokwemigoyesigaba sama-27(5) se-*Sectional Titles Act*;
- (h) uma umnikazi esefake isicelo futhi uma bonke abanikazi sebevumelene , kufanele ligunyaze ukunwetshwa kwemingcele noma ibala laphansi ngokwemigomo ye-*Sectional Titles Act*; futhi 15
- (i) ngokujwayelekile lingasebenzisa igunya futhi lenze umsebenzi onikeziwe noma othweswe igatsha elilawula uhlelo lwesigceme ngokwemigomo yalo Mthetho noma we-*Sectional Titles Act*. 20
- (2) Indawo ethengwe igatsha elilawula uhlelo lwesigceme ngokwemigomo yesigatshana soku-(1)(d)—
- (a) kufanele ibhaliswe egameni legatsha elilawula uhlelo lwesigceme ngokwemigomo ye-*Sectional Titles Act kanye ne-Deeds Registries Act, 1937 (Act No. 47 of 1937)*; futhi 25
- (b) ithathwa njengeyabanikazi besigceme esakhiweni esiqondene ngendlela efanayo naleyo yesabelo sabo esiyingxenye njengoba kuvezwe esigatsheni sama-26(2) se-*Sectional Titles Act*.

Imihlangano yegatsha elilawula uhlelo lwesigceme

6. (1) Imihlangano yegatsha elilawula uhlelo lwesigceme kufanele ibanjelwe endaweni nangesikhathi futhi nangendlela enqunywe igatsha elilawula uhlelo lwezigceme. 30
- (2) Igatsha elilawula uhlelo lwesigceme zingakapheli izinsuku ezingama-30 ngaphambi kokubamba umhlangano wegatsha elilawula uhlelo lwesigceme lapho kuzothathwa khona isinqumo esikhethekile noma isinqumo sabantu bonke, kufanele linikeze wonke amalungu egatsha elilawula uhlelo lwesigceme isaziso esibhaliwe esiveza isinqumo esihlongoziwe, ngaphandle kwalapho uma linikeze isaziso esikhathini esifishane. 35
- (3) Isaziso eziveziwe esigatshaneni sesi-2 kufanele—
- (a) sinikezwe ilungu bukhoma esandleni; 40
- (b) sithunyelwe ngeposi sibhaliswe ekhelini lesigceme selungu ohlelweni oluqondene; noma
- (c) sithunyelwe ngeposi sibhaliswe ekhelini lendawo yokuhlala noma ekhelini lokuposa eliseRiphabhuliki yaseNingizimu Afrika lapho ilungu likhethe khona ngencwadi ukuba kuthunyelwe lesi saziso. 45
- (4) Ukwengeza esigatshaneni sesi-(3), isaziso esivezwe esigatshaneni sesi-(2) singathunyelwa elungwini ngesikhahlamezi noma ngombikombani (*imeyili*).
- (5) Ilungu lingazimela noma limelwe kulo mhlangano: Inqobo nje uma lowo muntu engeke amele amalungu angaphezu kwamabili.
- (6) Uma sekubalwa inani lamavoti, ivoti lelungu ngalinye lizobalwa— 50
- (a) njengenani lezabelo ezabiwe ezigcemeni ezibhalisiwe egameni lalelo lungu; noma
- (b) ngokulandela umthetho owenziwe ngokwemigomo yesigaba se-10(2), noma omuphi osebenzayo.
- (7) Uma kubalwa amavoti ngenani, ilungu ngalinye liba nevoti elilodwa. 55
- (8) Uma isinqumo sabantu bonke sizoba nomphumela ongemuhle elungwini, isinqumo ngeke sisebenze lelo lungu lize livume ngokubhala phansi zingakapheli izinsuku eziyisikhombisa kusukela ngosuku lwesinqumo.
- (9) Igatsha elilawula uhlelo lwesigceme noma umnikazi ongakwazi ukuthola isinqumo esikhethekile noma sabantu bonke angacela kumphenyi omkhulu wezikhalazo ozimele isixazululo senkantolo. 60

Trustees of body corporate

7. (1) The functions and powers of the body corporate must, subject to the provisions of this Act, the rules and any restriction imposed or direction given at a general meeting of the owners of sections, be performed and exercised by the trustees of the body corporate holding office in terms of the rules. 5
- (2) (a) In addition to the functions contemplated in subsection (1), the trustees of the body corporate must receive and may consent to applications for subdivision of sections or consolidation of sections, made by the owners of sections.
- (b) Such consent must not unreasonably be withheld by the trustees. 10
- (3) For the purposes of an agreement in respect of the beacons and boundaries of the common property required in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), the trustees are deemed to be the owner of the land. 10

Fiduciary position of trustees

8. (1) Each trustee of a body corporate must stand in a fiduciary relationship to the body corporate. 15
- (2) Without derogating from the generality of the expression “fiduciary relationship”, the provision of subsection (1) implies that a trustee—
- (a) must in relation to the body corporate act honestly and in good faith, and in particular—
- (i) exercise his or her powers in terms of this Act in the interest and for the benefit of the body corporate; and 20
- (ii) not act without or exceed those powers; and
- (b) must avoid any material conflict between his or her own interests and those of the body corporate, and in particular—
- (i) not receive any personal economic benefit, direct or indirect, from the body corporate or from any other person; and 25
- (ii) notify every other trustee of the nature and extent of any direct or indirect material interest which he or she may have in any contract of the body corporate, as soon as such trustee becomes aware of such interest.
- (3) A trustee of a body corporate who acts in breach of his or her fiduciary relationship, is liable to the body corporate for— 30
- (a) any loss suffered as a result thereof by the body corporate; or
- (b) any economic benefit received by the trustee by reason thereof.
- (4) Except as regards the duty referred to in subsection (2)(a)(i), any particular conduct of a trustee does not constitute a breach of a duty arising from his or her fiduciary relationship to the body corporate if such conduct was preceded or followed by the written approval of all the members of the body corporate where such members were or are cognisant of all the material facts. 35

Proceedings on behalf of bodies corporate

9. (1) An owner may initiate proceedings on behalf of the body corporate in the manner prescribed in this section— 40
- (a) when such owner is of the opinion that he or she and the body corporate have suffered damages or loss or have been deprived of any benefit in respect of a matter mentioned in section 2(7), and the body corporate has not instituted proceedings for the recovery of such damages, loss or benefit; or 45
- (b) when the body corporate does not take steps against an owner who does not comply with the rules.
- (2) (a) Any such owner must serve a written notice on the body corporate calling on the body corporate to institute such proceedings within one month from the date of service of the notice, and stating that if the body corporate fails to do so, an application to the Court under paragraph (b) will be made. 50

Abangamele indawo yamatsha alawula uhlelo lwesigceme

7. (1) Imisebenzi kanye negunya legatsha elilawula uhlelo lwesigceme, ngokwemibandela yalo Mthetho, imithetho kanye neminye imithetho yokuthiba ethwesiwe noma umyalelo onikezwe emhlanganweni ojwayelekile wabanikazi bezigceme, kufanele yenziwe futhi isetshenziswe abangamele indawo yegatsha elilawula uhlelo lwesigceme abasesikhundleni ngokwemigomo yemithetho. 5
- (2) (a) Ukwengeza emisebenzini evezwe esigatshaneni soku-(1), abangamele indawo yegatsha elilawula uhlelo lwesigceme kufanele bathole futhi bamukele izicelo zokuhlukanisa izigceme futhi zokuhlukanisa izigceme, ezenziwe abanikazi bezigceme. 10
- (b) Le mvume akufanele igodlwe ngendlela engafanele abangamele indawo.
- (3) Ngokwesivumelwano izimpawu kanye nemingcele yendawo yomphakathi okudingekayo ngokwemigomo ye-*Land Survey Act, 1997 (Act No. 8 of 1997)*, abangamele indawo bathathwa njengabanikazi bomhlaba.

Ubudlelwano bokuthembana kwabangamele indawo

8. (1) Owengamele indawo yegatsha elilawula uhlelo lwesigceme ngamunye kufanele abe nobudlelwano bokuthembana negatsha elilawula uhlelo lwesigceme. 15
- (2) Ngaphandle kokujivaza incazelo ejwayelekile 'yobudlelwano bokuthembana', umbandela wesigatshana soku-(1) uthi ongamele indawo—
- (a) ngokuqondene negatsha elilawula uhlelo lwesigceme kufanele asebenze ngobuqotho futhi ngokuthembeka, ikakhulukazi— 20
- (i) kufanele asebenzise igunya lakhe ngokwemigomo yalo Mthetho ukubhekela futhi ukuze kuzuze igatsha elilawula uhlelo lwesigceme, futhi
- (ii) akufanele asebenze ngaphandle noma ngokudlula kulelo gunya; futhi
- (b) kufanele agweme ukushayisana kwemibono yakhe neyegatsha elilawula uhlelo lwesigceme, ikakhulukazi— 25
- (i) akufanele athole inzuzo yezezimali, eqondiswe kuyena noma ngenye indlela, egatsheni elilawula uhlelo lwesigceme noma komunye umuntu; futhi
- (ii) kufanele azise abanye abangamele indawo ngomsuka kanye nangendlela yenzuzo ayizuzayo enkontilekeni yegatsha elilawula uhlelo lwesigceme, ngesikhathi azokwazi ngaso ngaleyo nzuzo. 30
- (3) Owengamele indawo yegatsha elilawula uhlelo lwesigceme owaphula ubudlelwano bakhe bokwethembana, uzobhekana negatsha elilawula uhlelo lwesigceme— 35
- (a) okulahlekayo kulahlwa igatsha elilawula uhlelo lwesigceme; noma
- (b) inzuzo yemali etholwe owengamele indawo ngaleso sizathu.
- (4) Ngaphandle kweyomsebenzi oshiwo esigatshaneni sesi-(2)(a)(i), ukuziphatha okuthile kongamele indawo akuhlukanisi ukwaphula umsebenzi obangelwe ubudlelwano bokwethembana negatsha elilawula uhlelo lwesigceme uma leso senzo sandulelwa noma salandelwa incwadi egunyaza wonke amalungu egatsha elilawula uhlelo lwesigceme uma lawo malungu ayenolwazi noma azi ngalokhu. 40

Izinyathelo zomthetho ezithathelwa igatsha elilawula uhlelo lwesigceme

9. (1) Umnikazi angaqala athathe izinyathelo zomthetho azithathele igatsha elilawula uhlelo lwesigceme ngendlela enqunyiwe kulesi sigaba— 45
- (a) uma lowo mnikazi ekholelwa ukuthi yena kanye negatsha elilawula uhlelo lwesigceme bathole umonakalo noma ukulahlekelwa noma bancishwe ukuzuzwa kokushiwo esigatsheni sesi-2(7), futhi igatsha elilawula uhlelo lwesigceme lingakazithathi izinyathelo zomthetho ukulungisa umonakalo, ukulahlekelwa noma inzuzo; noma 50
- (b) uma igatsha elilawula uhlelo lwesigceme lingathatheli izinyathelo umnikazi ongayilandeli imithetho.
- (2) (a) Lo mnikazi kufanele anikeze isaziso esibhaliwe egatsheni elilawula uhlelo lwesigceme esicela ukuba igatsha elilawula uhlelo lwesigceme lithathe lezi zinyathelo zomthetho ingakapheli inyanga eyodwa kusukela ngosuku okukhishwe ngalo isaziso, futhi siveze ukuthi uma igatsha elilawula uhlelo lwesigceme lihluleka ukwenza njalo, kuzokwenziwa isicelo eNkantolo ngaphansi kwendima (b). 55

(b) If the body corporate fails to institute the proceedings within the period referred to in paragraph (a), the owner may make application to the Court for an order appointing a *curator ad litem* for the body corporate for the purpose of instituting and conducting proceedings on behalf of the body corporate.

(3) The Court may on such application, if it is satisfied— 5

- (a) that the body corporate has not instituted such proceedings;
- (b) that there are *prima facie* grounds for such proceedings; and
- (c) that an investigation into such grounds and into the desirability of the institution of such proceedings is justified,

appoint a provisional *curator ad litem* and direct him or her to conduct an investigation into the matter and to report to the Court on the return day of the provisional order. 10

(4) The Court may on the return day discharge the provisional order referred to in subsection (3), or confirm the appointment of the *curator ad litem* for the body corporate, and issue such directions as it may consider necessary to the institution of proceedings in the name of the body corporate and the conduct of such proceedings on behalf of the body corporate by the *curator ad litem*. 15

(5) A provisional *curator ad litem* appointed by the Court under subsection (3) or a *curator ad litem* whose appointment is confirmed by the Court under subsection (4), has such powers as may be prescribed, in addition to the powers expressly granted by the Court in connection with the investigation, proceedings and enforcement of a judgment. 20

(6) If the disclosure of any information about the affairs of a body corporate to a provisional *curator ad litem* or a *curator ad litem* would in the opinion of the body corporate be harmful to the interests of the body corporate, the Court may on an application for relief by that body corporate, and if it is satisfied that the said information is not relevant to the investigation, grant such relief. 25

(7) The Court may, if it appears that there is reason to believe that an applicant in respect of an application under subsection (2) will be unable to pay the costs of the respondent body corporate if successful in its opposition, require sufficient security to be given for those costs and the costs of the provisional *curator ad litem* before a provisional order is made. 30

Rules

10. (1) A scheme must as from the date of the establishment of the body corporate be regulated and managed, subject to the provisions of this Act, by means of rules.

(2) The rules must provide for the regulation, management, administration, use and enjoyment of sections and common property, and comprise— 35

- (a) management rules, as prescribed, which rules may subject to the approval of the chief ombud be substituted, added to, amended or repealed by the developer when submitting an application for the opening of a sectional title register, to the extent prescribed by regulation, and which rules may be substituted, added to, amended or repealed by unanimous resolution of the body corporate as prescribed; and 40
- (b) conduct rules, as prescribed, which rules may, subject to the approval of the chief ombud, be substituted, added to, amended or repealed by the developer when submitting an application for the opening of a sectional title register, and which rules may be substituted, added to, amended or repealed by special resolution of the body corporate, as prescribed: Provided that such conduct rules may not be irreconcilable with any prescribed management rule contemplated in paragraph (a). 45

(3) The management or conduct rules contemplated in subsection (2) must be reasonable and apply equally to all owners of units. 50

(b) Uma igatsha elilawula uhlelo lwesigceme lihluleka ukuthatha izinyathelo singakapheli isikhathi esishiwo endimeni (a), umnikazi angenza isicelo somyalelo eNkantolo sokuqoka ummeli wegatsha elilawula uhlelo lwesigceme ngenjongo yokuqala kanye nokuthatha izinyathelo zomthetho zithathelwa igatsha elilawula uhlelo lwesigceme. 5

(3) Ngaleso sicelo, uma iNkantolo yanelisekile—

- (a) ukuthi igatsha elilawula uhlelo lwesigceme alikazithathi lezi zinyathelo zomthetho;
- (b) ukuthi kunobufakazi obubonakalayo balezo zinyathelo zomthetho; futhi
- (c) ukuthi uphenyo ngalezi zizathu kanye nesidingo sokuba lwenziwe 10
kuwubulungiswa,

iqoke ummeli futhi imyalele ukuba enze uphenyo mayelana nalolu daba futhi abikele iNkantolo umyalelo wesikhashana ngosuku lokunikezela ngombiko.

(4) Ngosuku lokunikezela ngombiko iNkantolo ingachitha umyalelo wesikhashana oshiwo esigatshaneni sesi-(3), noma iqinisekise ukuqoka ummeli wegatsha elilawula uhlelo lwesigceme, futhi ikhiphe le miyalelo ngendlela ebona ukuthi ifanele ukuba kuthathwe izinyathelo zomthetho egameni legatsha elilawula uhlelo lwesigceme futhi nokuthatha lezi zinyathelo ezithathelwa igatsha elilawula uhlelo lwesigceme zithathwa ummeli. 15

(5) Ummeli wesikhashana oqokwe iNkantolo ngaphansi kwesigatshana sesi-(3) noma ummeli ukuqokwa kwakhe okugunyazwe iNkantolo ngaphansi kwesigatshana sesi-(4), ungunya elichaziwe, ukwengeza egunyeni elithile elinikezwe iNkantolo mayelana nophenyo, izinyathelo zomthetho kanye nokubophezela isinqumo. 20

(6) Uma ukudalula iminingwane mayelana nezindaba zegatsha elilawula uhlelo lwesigceme kummeli wesikhashana noma kummeli igatsha elilawula uhlelo lwesigceme libona kungaphazamisa inzuzo yegatsha elilawula uhlelo lwesigceme, ngesicelo sokulungisa umonakalo wegatsha elilawula uhlelo lwesigceme iNkantolo uma yanelisekile ukuthi leyo mininingwane ayibalulekile ophenyweni, ingavumela lesi sisombululo. 25

(7) Uma kunesizathu esenza kukholakale ukuthi lowo ofake isicelo mayelana nesicelo esingaphansi kwesigatshana sesi-(2) ngeke akwazi ukukhokha izindleko zomangalelwa oyigatsha elilawula uhlelo lwesigceme uma liphumelela ekuphikiseni kwalo, iNkantolo ingacela isiqiniseko sokukhokha ukuba sinikezwe mayelana nalezo zindleko kanye nezindleko zommeli wesikhashana ngaphambi kokuba kukhishwe umyalelo wesikhashana. 30
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Imithetho

10. (1) Kusukela ngosuku lokusungula igatsha elilawula uhlelo lwesigceme uhlelo kufanele luhanjiswe ngomthetho futhi lusingathwe, ngokwemibandela yalo Mthetho, nangemithetho.

(2) Imithetho kufanele ihlinzekele ngokuhambisa ngomthetho, ukusingatha, ukuphatha, ukusebenzisa kanye nokuthokozela izigceme kanye nendawo yomphakathi, futhi ihlanganise— 40

- (a) imithetho yokuphatha, njengoba inqunyiwe, leyo mithetho okufanele igunyazwe umphenyi omkhulu wezikhhalazo ozimele ingasuswa ishintshwe, yengezwe, ichibiyelwe noma ichithwe umsunguli othuthukisa ukwakhiwa kwezindlu uma ehambisa isicelo sokubhalisa isigceme, ngendlela enqunyiwe isimiso somthetho, futhi leyo mithetho ingashintshwa, yengewe, ichibiyelwe noma ichithwe ngesinqumo segatsha lonke elilawula uhlelo lwesigceme njengoba kunqunyiwe; futhi 45

- (b) imithetho yenqubo yokuziphatha, njengoba inqunyiwe, leyo mithetho, ngokugunyazwa umphenyi omkhulu wezikhhalazo ozimele, ingashintshwa, yengezwe, ichibiyelwe noma ichithwe umsunguli othuthukisa ukwakhiwa kwezindlu uma ehambisa isicelo sokubhalisa isigceme, ngendlela enqunyiwe, futhi le mithetho ingashintshwa, yengewe, ichibiyelwe noma ichithwe ngesinqumo esikhethekile segatsha elilawula uhlelo lwesigceme njengoba kunqunyiwe: Inqobo nje uma le mithetho yenqubo yokuziphatha, ingeke ishayisane nomthetho onqunyiwe wokuphatha ovezwe endimeni (a). 50
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(3) Umthetho wokuphatha noma imithetho yenqubo yokuziphatha evezwe esigatshaneni sesi-(2) kufanele izwakale futhi isebenze ngokulingana kubanikazi bonke bamayunithi. 60

(4) The management or conduct rules referred to in subsection (2) take effect from the date of establishment of the body corporate in respect of the building or buildings and land concerned, and bind the body corporate and the owners of the sections and any person occupying a section.

(5) (a) If the management or conduct rules contemplated in subsection (2) are substituted, added to, amended or repealed, the developer or the body corporate must lodge with the chief ombud a notification in the prescribed form of such substitution, addition, amendment or repeal. 5

(b) The chief ombud must examine any proposed substitution, addition, amendment or repeal referred to in paragraph (a) and must not approve it for filing unless he or she is satisfied that such substitution, addition, amendment or repeal is reasonable and appropriate to the scheme. 10

(c) If the chief ombud approves the substitution, addition, amendment or repeal of rules for filing, he or she must issue a certificate to that effect.

(d) A substitution, addition, amendment or repeal of rules contemplated in paragraph (a) comes into operation on the date of the issuing of a certificate contemplated in paragraph (c) or the opening of the sectional title register for the scheme, whichever is the latest. 15

(6) The body corporate must—

(a) keep a copy of all rules; 20

(b) have the rules available for inspection at meetings of trustees and owners;

(c) deliver a copy of the rules to each person who becomes an owner or occupier;

(d) deliver to all owners a copy of any rules substituted, added or amended and details of any rules repealed in terms of subsection (5);

(e) on request by an owner or any person authorised in writing by an owner, deliver a copy of all rules to such owner. 25

(7) A developer or a body corporate may make management or conduct rules which confer rights of exclusive use and enjoyment of parts of the common property upon members of the body corporate.

(8) The rules contemplated in subsection (7) must— 30

(a) include a layout plan to scale on which is clearly indicated—

(i) the locality of the distinctively numbered exclusive use and enjoyment parts; and

(ii) the purposes for which such parts may be used; and

(b) include a schedule indicating to which owner each such part is allocated. 35

(9) Rules decided on by unanimous resolution under the repealed Sectional Titles Act, 1971, or any other provision before 1 June 1988 replacing rules contained in Schedule 1 to that Act, and at the said date not yet lodged with the registrar as contemplated in section 27(3) of that Act, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)(a), by prescribed management rules contemplated in that subsection. 40

(10) (a) Unaltered rules contained in Schedule 1 to the repealed Sectional Titles Act, 1971, or any other provision and applying immediately prior to 1 June 1988 in respect of any scheme, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)(a), by the prescribed management rules contemplated in that subsection. 45

(b) Unaltered rules contained in Schedule 2 to the repealed Sectional Titles Act, 1971, or any other provision and so applying in respect of any scheme, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)(b), by the prescribed conduct rules contemplated in that subsection. 50

(11) Any rules other than rules referred to in subsection (10) which applied in respect of a scheme immediately prior to 1 June 1988 must, subject to such substitution,

(4) Imithetho yokuphatha noma yenqubo yokuziphatha eshiwo esigatshaneni sesi-(2) izoqala ukusebenza kusukela ngosuku lokusungula igatsha elilawula uhlelo lwesigceme mayelana nesakhiwo noma izakhiwo kanye nomhlaba oqondene, futhi ubophezele igatsha elilawula uhlelo lwesigceme kanye nabanikazi bezigceme kanye nomuntu ohlala kuleso sigceme. 5

(5) (a) Uma imithetho yokuphatha noma yenqubo yokuziphatha evezwe esigatshaneni sesi-(2) ishintshwa, yengezwa, ichibiyelwa noma echithwa, umsunguli othuthukisa ukwakhiwa kwezindlu noma igatsha elilawula uhlelo lwesigceme kufanele lifake isaziso kumphenyi omkhulu wezikhaziso ozimele ngendlela enqunyiwe ngokushintsha, ukwengeza, ukuchibiyela noma ukuchitha. 10

(b) Umphenyi omkhulu wezikhaziso ozimele kufanele ahlole okuphakamisiwe okuzoshitshwa, kwengezwe, kuchibiyelwe noma kuchithwe okushiwo endimeni (a) futhi akufanele akugunyaze ukuba kubhalwe emabhukwini ngaphandle uma anelisekile ngokushintshwayo, okwengezwayo, okuchibiyelwayo noma okuchithwayo kuzwakala futhi kulufanele uhlelo. 15

(c) Uma umphenyi omkhulu wezikhaziso egunyaza ukushintsha, ukwengeza, ukuchibiyela noma ukuchitha imithetho ukuba ifakwe emabhukwini, kufanele akhiphe isitifiketi salokho.

(d) Ukushintsha, ukwengeza, ukuchibiyela noma ukuchitha imithetho evezwe endimeni (a) kuzoqala ukusebenza ngosuku okukhishwa ngalo isitifiketi esivezwe endimeni (c) noma ngokubhalisa uhlelo lwesigceme, noma okuphi kulokhu. 20

(6) Igatsha elilawula uhlelo lwesigceme kufanele—

(a) ligcine ikhophi layo yonke imithetho;

(b) libe nemithetho etholakalayo ukuze ihlolwe emihlanganweni abangamele indawo yegatsha elilawula uhlelo lwesigceme nabanikazi; 25

(c) lithumele ikhophi yemithetho kumuntu ngamunye oba ngumnikazi noma umhlali;

(d) lithumele bonke abanikazi ikhophi lemithetho eguquliwe, eyengeziwe noma echitshiyelwe kanye nemininigwane yeminye imithetho echithiwe ngokwemigomo yesigatshana sesi-(5); 30

(e) uma umnikazi enze isicelo noma omunye umuntu ogunyaziwe ngencwadi umnikazi, athumele ikhophi yemithetho kulowo mnikazi.

(7) Othuthukisa ukwakhiwa kwezindlu noma igatsha elilawula uhlelo lwesigceme angenza imithetho yokusingatha noma yokuziphatha ethwesa amalungelo okusebenzisa ngokukhethekile kanye nokuthokozela izingxenye zendawo yomphakathi kumalungu egatsha elilawula uhlelo lwesigceme. 35

(8) Imithetho evezwe esigatshaneni sesi-(7) kufanele—

(a) ibandakanye uhlelo lwesilinganiso sesakhiwo oluveza ngokucacile—

(i) inani lezingxenye zezindawo ezithile ezisetshenziswa ngokukhethekile futhi nezithokozelwayo; kanye 40

(ii) nezinjongo zokusebenzisa lezo zingxenye; futhi

(b) ibandakanye isithasiselo esiveza ingxenye ngayinye eyabelwe umnikazi.

(9) Imithetho enqunyiwe ngesinqumo sabantu bonke ngaphansi kwe-*Sectional Titles Act, 197*, noma ngomunye umbandela ngaphambi kuka 1 Juni 1988 evala imithetho equkethwe iSithasiselo soku-1 salowo Mthetho, futhi ngalolo suku ingakabhaliswa kunobhala njengoba kuvezwe esigatsheni sama-27(3) salowo Mthetho, yaphelelwa isikhathi sokusebenza ngalolo suku, futhi leyo mithetho kuthathwa ngokuthi ivalwe ngeminye, ngokwengeza, ukuchibiyela noma ngokuchitha njengoba kuveziwe esigatshaneni sesi-(2)(a) ngemithetho yokuphatha enqunyiwe evezwe kuleso sigatshana. 50

(10) (a) Imithetho engaguqulwa equkethwe iSithasiselo soku-1 ku-*Sectional Titles Act, 1971* echithiwe, noma omunye umbandela futhi ozosebenza ngaphambi kwamhla-1 June 1988 mayelana nohlelo, yaphelelwa isikhathi ngalolo suku, futhi le mithetho kwathathwa ngokuthi ivalwe ngeminye ngokwengeza, ukuchibiyela noma ukuchithwa njengoba kuvezwe esigatshaneni sesi-(2)(a), ngemithetho enqunyiwe yokuphatha evezwe kuleso sigatshana. 55

(b) Imithetho eguquliwe equkethwe iSithasiselo sesi-2 se-*Sectional Titles Act, 1971* echithiwe, noma omunye umbandela futhi esebenzayo ohlelweni, yaphelelwa isikhathi sokusebenza ngalolo suku, futhi le mithetho yavalwa ngeminye, ngokwengeza, ukuchibiyela noma ngokuchithwa njengoba kuveziwe esigatshaneni sesi-(2)(b) ngemithetho yenqubo yokuziphatha enqunyiwe evezwe kulesi sigatshana. 60

(11) Noma emiphi imithetho ngaphandle kwemithetho eshiwo esigatshaneni se-(10) esebenzile ohlelweni ngaphambi komhlaka-1 Juni 1988, eshintshiwe, yengezwa,

addition, amendment or repeal as contemplated in subsection (2)(a) or (b), as the case may be, remain in force after the said date, except to the extent that any such rule may be irreconcilable with any prescribed management rules contemplated in subsection (2)(a), in which case the management rules concerned applies: Provided that any such rules were as from 1 June 1988 considered to be supplemented by any rule in the prescribed management rules which is not provided for in such rules. 5

(12) Any rules made under the Sectional Titles Act are deemed to have been made under this Act.

Effect of quotas and variation thereof

11. (1) Subject to subsection (2), the quota of a section must determine— 10

- (a) the value of the vote of the owner of the section, in any case where the vote is to be reckoned in value;
- (b) the undivided share in the common property of the owner of the section; and
- (c) subject to section 3(1)(b), the proportion in which the owner of the section must make contributions for the purposes of section 3(1)(a) or may in terms of section 14 (1) be held liable for the payment of a judgment debt of the body corporate of which he or she is a member. 15

(2) (a) Subject to section 3(1)(b), the developer may, when submitting an application for the opening of a sectional title register in terms of the Sectional Titles Act, or the members of the body corporate may by special resolution, make rules under section 10 by which a different value is attached to the vote of the owner of any section, or the liability of the owner of any section to make contributions for the purposes of section 3(1)(a) or 14(1) is modified. 20

(b) Where an owner is adversely affected by such a decision of the body corporate, his or her prior written consent must be obtained. 25

(c) The members of the body corporate may not make rules by which a different value is attached to the vote or liability of the owner of any section as contemplated in paragraph (a) until such time as there are owners, other than the developer, of at least 30 per cent of the units in the scheme.

(d) Where the developer alienates a unit before the opening of a sectional title register in terms of the Sectional Titles Act, the developer may not make rules by which a different value is attached to the vote or liability of the owner of any section as contemplated in paragraph (a), unless the developer has disclosed such intention in all deeds of alienation. 30

Expropriation of common property 35

12. (1) (a) Whenever the whole or any part of, or any right in, the common property is expropriated in terms of any law, service of a notice of expropriation on the body corporate is considered to be service thereof on the registered owner of every section in the building or buildings concerned.

(b) Each and every such owner is considered to have appointed the trustees of the body corporate concerned as his or her duly authorised agents and representatives— 40

- (i) to negotiate and settle the compensation payable to him or her, and to that end to employ attorneys, advocates and other experts; and
- (ii) on his or her behalf, to receive and give valid acquittance for any compensation moneys paid. 45

(2) Any compensation moneys received by the trustees on behalf of the owners in terms of subsection (1), must be paid to the owners in accordance with their participation quotas after they have received notice of such distribution in writing: Provided that an owner may notify the trustees within 30 days of receipt of such notice but before such moneys are so distributed that he or she considers such a distribution inequitable, in which event the compensation moneys must be distributed— 50

- (a) in accordance with a distribution approved by unanimous resolution; or
- (b) in accordance with a distribution determined on application to an ombud.

yachibiyelwa noma yachithwa njengoba kuveziwe esigatshaneni sesi-(2)(a) noma (b), noma esinye sazo, kufanele iqhubeke isebenze ngemuva kwalolu suku, ngaphandle uma lowo mthetho ushayisana nemithetho yokuphatha enqunyiwe evezwe esigatshaneni sesi-(2)(a), kuleso simo kuzosebenza imithetho yokuphatha eqondene: Inqobo nje uma leyo mithetho kusukela mhlaka-1 Juni 1988 yengezwa ngomunye umthetho wemithetho yokuphatha enqunyiwe ongahlinzekelwe kule mithetho. 5

(12) Imithetho eyenziwa ngaphansi kwe-*Sectional Titles Act* kufanele ithathwe njengeyenziwe ngaphansi kwalo Mthetho.

Umthelela wezabelo kanye nokuhlukana kwazo

11. (1) Ngokwesigatshana sesi-(2), isabelo sesigceme kufanele sinqume— 10
- (a) ukuba semqoka kwevoti lomnikazi wesigceme, esimweni lapho ivoti libhekwa ngobumqoka balo;
 - (b) ingxenye engabiwe endaweni yomphakathi yomnikazi wesigceme; futhi
 - (c) ngokwesigaba sesi-3(1)(b), ingxenye lapho umnikazi wesigceme kufanele afake khona iminikelo ngokwesigaba ses-3(1)(a) noma ngokwesigaba se-14 (1) engabhekana nokukhokha isikweletu segatsha elilawula uhlelo lwesigceme lapho eyilungu khona. 15
- (2) (a) Ngokwesigaba sesi- 3(1)(b), umsunguli othuthukisa ukwakhiwa kwezindlu, uma ehambisa isicelo sokubhalisa isigceme ngokwemigomo ye-*Sectional Titles Act*, noma amalungu egatsha elilawula uhlelo lwesigceme ngesinqumo esikhethekile, angenza imithetho ngaphansi kwesigaba sesi-10 lapho kuthweswa khona ukubaluleka ngokuhlukile evotini lomnikazi wesigceme, noma okuthweswe umnikazi wesigceme ukuba afake umnikelo kukhona ngokwesigaba sesi-3(1)(a) noma se-14(1). 20
- (b) Uma umnikazi ethintekela kakhulu ngalesi sinqumo segatsha elilawula uhlelo lwesigceme, kufanele kutholwe imvume yakhe ebhaliwe kuqala. 25
- (c) Amalungu egatsha elilawula uhlelo lwesigceme angeke ashaye imithetho ngokuba semqoka kwevoti ngokwahlukile ngokusemahlombe omnikazi wesigceme njengoba kuveziwe endimeni (a) kuze kufike leso sikhathi okuzoba khona abanye abanikazi, ngaphandle komsunguli othuthukisa ukwakhiwa kwezindlu, abanamaphesenti angekho ngaphansi kwangama-30 amayunithi asohlelweni. 30
- (d) Uma umsunguli othuthukisa ukwakhiwa kwezindlu edlulisela ubunikazi beyunithi ngaphambi kokuba abhalise isigceme ngokwemigomo ye-*Sectional Titles Act*, umsunguli othuthukisa ukwakhiwa kwezindlu angeke ashaye imithetho ngokuba semqoka ngokwahlukile kwevoti noma ngokusemahlombe omnikazi wesigceme njengoba kuveziwe endimeni (a), ngaphandle uma umsunguli othuthukisa ukwakhiwa kwezindlu edalule le nhloso ezenzweni zonke zokudlulisa ubunikazi. 35

Ukudliwa kwendawo yomphakathi

12. (1) (a) Uma kudliwa yonke noma ingxenye, noma ilungelo lendawo yomphakathi ngokwemigomo yomthetho, igatsha elilawula uhlelo lwesigceme likhipha isaziso sokuyidla sinikezwe bonke abanikazi ababhalisiwe ezigcimeni zesakhiwo noma zezakhiwo eziqondene. 40
- (b) Umnikazi ngamunye kuthathwa ngokuthi uqoke abangamele indawo yegatsha elilawula uhlelo lwesigceme abaqondene njengezithunywa ezigunyaziwe futhi njengabangameli—
- (i) ukuba baxoxe futhi baxazulule isibonelelo azokhokhelwa sona, futhi kulokhu baqashe abameli, abameli abanelungelo lokwahlulela kanye nabanye ongoti; futhi 45
 - (ii) abazobatholela futhi babakhulule ezikweletini emalini yesibonelelo ekhokhwayo.
- (2) Imali yesibonelelo etholwa abangamele indawo yabanikazi ngokwemigomo yesigatshana soku-(1), kufanele ikhokhwe kubanikazi ngendlela yezabelo zabo eziyingxenye ngemuva kokuba sebethole isaziso salokhu kwabiwa ngencwadi ebhaliwe: Inqobo nje uma umnikazi azisa abangamele indawo zingakapheli izinsuku ezingama-30 sitholiwe leso saziso kodwa ngaphambi kokuba kwabiwe le mali uma ebona ukuthi ukwabiwa kwale mali akuhambi ngendlela efanayo, kuleso simo imali yesinxephezelo kufanele yabiwe— 55
- (a) ngendlela yokwaba egunyazwe ngesinqumo sabantu bonke; noma
 - (b) ngendlela yokwaba enqunye ngesicelo esifakwe kumphenyi wezikhalazo ozimele.

Duties of owners

13. (1) An owner must—

- (a) permit any person authorised in writing by the body corporate, during reasonable hours and on notice (except in case of emergency, when no notice is required), to enter his or her section or exclusive use area for the purposes 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 ensuring that this Act and the rules are being observed; 5
- (b) forthwith carry out all work that may be ordered by any competent authority in respect of his or her section, other than such work as may be required for the benefit of the building generally, and pay all charges, expenses and assessments that may be payable in respect of his or her section; 10
- (c) repair and maintain his or her section in a state of good repair and, in respect of an exclusive use area, keep it in a clean and neat condition; 15
- (d) use and enjoy the common property in such a manner as not to interfere unreasonably with the use and enjoyment thereof by other owners or other persons lawfully on the premises;
- (e) not use his or her section or exclusive use area, or permit it to be used, in a manner or for a purpose which may cause a nuisance to any occupier of a section; 20
- (f) notify the body corporate forthwith of any change of ownership or occupancy in his or her section and of any mortgage; and
- (g) when the purpose for which a section or 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 section or exclusive use area to be used for any other purpose: Provided that with the written consent of all owners such section or exclusive use area may be used for that purpose as consented to. 25

(2) Any owner who is of the opinion that any refusal of consent of another owner in terms of the proviso to subsection (1)(g) is unfairly prejudicial, unjust or inequitable to him or her, may, within six weeks after the date of such a refusal, make an application in terms of this subsection to an ombud. 30

Insurance by owners

14. (1) Notwithstanding the existence of a valid insurance policy effected by the body corporate pursuant to the provisions of section 3(1)(h), an owner may obtain an insurance policy in respect of any damage to his or her section arising from risks not covered by the policy effected by the body corporate. 35

(2) This section does not limit the rights of an owner to insure against risks other than damage to his or her section.

Recovery from owners of unsatisfied judgment against bodies corporate and non-liability of bodies corporate for debts and obligations of developers 40

15. (1) (a) If a creditor of a body corporate has obtained judgment against the body corporate, and such judgment, notwithstanding the issue of a writ, remains unsatisfied, the judgment creditor may, without prejudice to any other remedy he or she may have and subject to paragraph (c), apply to the Court which gave the judgment, for the joinder of the members of the body corporate in their personal capacities as joint judgment debtors in respect of the judgment debt. 45

(b) Upon such joinder, the judgment creditor may recover the amount of the judgment debt still outstanding from the said members on a pro rata basis in proportion to their respective quotas or a rule made in terms of section 10(2). 50

Imisebenzi yabanikazi

13. (1) Umnikazi kufanele—

- (a) avumele noma ubani ngemvume ebhalwe igatsha elilawula uhlelo lwesigceme, ngamahora azwakalayo futhi ngesaziso (ngaphandle uma kunesimo esiphuthumayo, kungadingeki isaziso), ukuba angene esigcemini sakhe noma endaweni esetsheniswa ngokukhethekile ukuba ayihlelole futhi anakekele, alungise noma ashintshe amapayipi, ucingo, amakhebula kanye nemigudu esesigcemeni engasetshenziswa ezinye izigceme noma indawo yomphakathi, noma ngenjongo yokuqikelela ukuthi lo Mthetho kanye neminye imithetho iyalandelwa; 5 10
- (b) ngokunjalo enze wonke umsebenzi onganikezwa umkhandlu esigcemeni sakhe, ngaphandle kwalowo msebenzi ongadingeka ukuze kuzuze isakhiwo ngokujwayelekile, futhi akhokhe izimali ezibiziwe, izindleko kanye nokuhlolwa kwendawo esigcemeni sakhe; 10
- (c) alungise futhi anakekele isigceme sakhe sibe sesimweni esihle, mayelana nendawo esetshenziswa ngokukhethekile, ayigcine ihlanzekile futhi isesimweni esihle; 15
- (d) asebenzise futhi athokozele indawo yomphakathi ngendlela engaxambukeli kwabanye abanikazi abayisebenzisayo futhi abayithokozelayo noma abanye abantu abahleli ngokusemthethweni kule ndawo; 20
- (e) angasisebenzisi isigceme sakhe noma indawo esetshenziswa ngokukhethekile, noma avume ukuba isetshenziswe, ngendlela noma ngenjongo engadala ukuhlukumeza abanye abahlala kulesi sigceme; 20
- (f) azise igatsha elilawula uhlelo lwesigceme ngokushesha ngoshintsho kubunikazi noma kumhlali wesigceme sakhe kanye nebhondi; futhi 25
- (g) uma injongo okuhloswe ngayo ukusetshenziswa isigceme noma indawo esetshenziswa ngokukhethekile izezwe ngokucacile noma umthelela noma ngohlelo lwesigceme esibhalisiwe, ingasebenzi futhi ingavumeli lesi sigceme noma indawo esetshenziswa ngokukhethekile ukuba isetshenziswe ngenye injongo: Inqobo nje uma kunemvume ebhaliwe yabanikazi bonke besigceme noma bendawo esetshenziswa ngokukhethekile ukuba ingasetshenziselwa leyo njongo okuvunyelenwe ngayo. 30

(2) Umnikazi obona ukuthi ukunqaba komnikazi othile ngokwemigomo yemibandela yesigatshana soku-(1)(g) kuyenzelelwa, ngokungesiwo umthetho noma ngokungalungile, engakapheli amasonto ayisi-6 ngemuva kokunqaba, angenza isicelo ngokwemigomo yalesi sigatshana kumphenyi wezikhhalazo ozimele. 35

Umshwalense wabanikazi

14. (1) Nakuba kunomshwalense osebenzayo wegatsha elilawula uhlelo lwesigceme ohambisana nemibandela yesigaba sesi-3(1)(h), umnikazi angathola umshwalense ezobhekela umonakalo esigcemeni sakhe obangelwe izingozi ezingavikelwe umshwalensi wegatsha elilawula uhlelo lwesigceme. 40

(2) Le ngxenye ayibeki umkhawulo kumalungelo omnikazi ukuba avikele ngomshwalense umonakalo wesigceme sakhe.

Ukusombulula umyalelo wegatsha elilawula uhlelo lwesigceme ongabagculisi abanikazi kanye nezikweletu ezingabhekene negatsha elilawula uhlelo lwesigceme futhi nezibophezelo zabasunguli abathuthukisa ukwakhiwa kwezindlu 45

15. (1) (a) Uma okweletwayo oyigatsha elilawula uhlelo lwesigceme ethola isinqumo senkantolo segatsha elilawula uhlelo lwesigceme, futhi lesi sinqumo, nakuba kunodaba lwamasamanisi, aqhubeke futhi anganeliseki, ophume phambili kuleli cala ngaphandle kokuphazamisa isisombululo anaso futhi ngokwendima (c), angafaka isicelo eNkantolo eyakhipha lesi sinqumo, sokuhlanganisa amalungu egatsha elilawula uhlelo lwesigceme ngokwegunya lawo ukuba ahlangani njengabantu abanganelisekile isinqumo senkantolo ngesikweletu. 50

(b) Uma sebhlanganisiwe, ohambe phambili ecaleni lesikweletu angathola isamba sesikweletu esinqunywe inkantolo esingakakhokhwa kulawo malungu ngesabelo sengxenye yezabelo zawo noma ngomthetho owenziwe ngokwemigomo yesigaba sesi-10(2). 55

(c) Any member of the body corporate who has paid the contributions due by him or her in terms of section 3(1)(c) to the body corporate in respect of the same debt prior to the judgment against the body corporate may not be joined as a joint judgment debtor in respect of the judgment debt.

(2) No debt or obligation arising from any agreement between the developer and any other person is enforceable against the body corporate. 5

Appointment of administrators

16. (1) A body corporate, a local municipality, a judgment creditor of the body corporate or any owner or other person having a registered real right in or over a unit may apply to a Magistrate's Court for the appointment of a suitably qualified and independent person to serve as the administrator of the body corporate. 10

(2) (a) If a Magistrate's Court on hearing the application referred to in subsection (1) finds—

- (i) evidence of serious financial or administrative mismanagement of the body corporate; and 15
- (ii) that there is a reasonable probability that, if it is placed under administration, the body corporate will be able to meet its obligations and be managed in accordance with the requirements of this Act,

the Magistrate's Court may appoint an administrator for a fixed period and on such terms and conditions as it deems fit. 20

(b) The remuneration and expenses of the administrator are administrative expenses contemplated in section 3(1)(a).

(3) An administrator has, to the exclusion of the body corporate, such powers and duties of the body corporate as the Magistrate's Court directs and must exercise these powers to address the body corporate's management problems as soon as reasonably possible. 25

(4) The administrator must—

- (a) convene and preside at the meetings required in terms of this Act and the scheme's rules; and
- (b) lodge with the ombud— 30
 - (i) copies of the notices and minutes of meetings; and
 - (ii) written reports on the administration process every three months or at such shorter intervals as the Magistrate's Court may direct.

(5) A Magistrate's Court may, on application by the administrator or any person or body referred to in subsection (1)— 35

- (a) remove the administrator from office;
- (b) replace the administrator;
- (c) extend the term of the administrator's appointment or amend his or her terms of appointment; and
- (d) may make such order for the payment of costs as the Magistrate's Court considers fit. 40

(6) The provisions of subsection (4) apply, with the necessary changes required by context, to the administrators appointed in terms of section 46 of the Sectional Titles Act.

Destruction of or damage to buildings 45

17. (1) The building comprised in a scheme is, for the purpose of this Act, deemed to be destroyed—

- (a) upon the physical destruction of the building;
- (b) when the owners by unanimous resolution so determine and all holders of registered sectional mortgage bonds and the persons with registered real rights concerned, agree thereto in writing; or 50
- (c) when the Court is satisfied that, having regard to all the circumstances, it is just and equitable that the building must be considered to have been destroyed, and makes an order to that effect.

(2) In any case where an order is made under subsection (1)(c), the Court may impose such conditions and give such directions as it considers fit for the purpose of adjusting the effect of the order between the body corporate and the owners and mutually among 55

(c) Ilungu legatsha elilawula uhlelo lwesigceme eselikhokhe iminikezo okufanele liyikhokhe ngokwemigomo yesigaba sesi-3(1)(c) egatsheni elilawula uhlelo lwesigceme mayelana nesikweletu esifanayo ngaphambi kwesinqumo senkantolo esikhishelwe igatsha elilawula uhlelo lwesigceme ngeke lihlanganiswe nalabo abahlanganiswe esikweletini esinqunywe inkantolo kulesi sikweletu. 5

(2) Asikho isikweletu noma isibophezelo esibangelwa isivumelwano esiphakathi komsunguli othuthukisa ukwakhiwa kwezindlu kanye nomunye umuntu esibophezelwe egatsheni elilawula uhlelo lwesigceme.

Ukuqoka abalawuli

16. (1) Igatsha elilawula uhlelo lwesigceme, umkhandlu wendawo, ohambe phambili ecaleni lesikweletu segatsha elilawula uhlelo lwesigceme noma umnikazi noma omunye umuntu onamalungelo endawo abhalisiwe noma eyunithi angafaka isicelo eNkantolo kaMantshi ukuba kuqokwe umuntu oneziqu ezifanele nozimele ukuba asebenze njengomlawuli wegatsha elilawula uhlelo lwesigceme. 10

(2) (a) Uma iNkantolo kaMantshi uma ilalele isicelo esishiwo esigatshaneni soku-(1) ithola— 15

(i) ubufakazi obunzulu bokungaphathi ngendlela efanele izimali noma ukulawulwa kwegatsha elilawula uhlelo lwesigceme; futhi

(ii) ukuthi kunethuba lokuthi uma libekwa ngaphansi komlawulu, igatsha elilawula uhlelo lwesigceme lizokwazi ukuhlangabezana nezibophezelo zalo futhi liphathwe ngendlela ehambisana nalo Mthetho, 20

iNkantolo kaMantshi ingaqoka umlawuli isikhathi esigcwele ngemibandela nemigomo ebona ukuthi ifanele.

(b) Iholo nezindleko zomlawuli zizokhokhwa ngemali yokulawula evezwe esigatsheni sesi-3(1)(a). 25

(3) Umlawuli engahlangene negatsha elilawula uhlelo lwesigceme unamandla nemisebenzi yegatsha elilawula uhlelo lwesigceme njengoba kulawule iNkantolo kaMantshi futhi kufanele asebenzise lawo mandla ukudingida izinkinga zokusingathwa kwegatsha elilawula uhlelo lwesigceme ngokushesha. 30

(4) Umlawulu kufanele—

(a) abambe futhi abize imihlangano efanele ngokwemigomo yalo Mthetho kanye nemithetho yohlelo; futhi

(b) afake kumphenyi wezikhhalazo ozimele—

(i) amakhophi nezaziso zamaminithi emihlangano; futhi

(ii) imibiko ebhaliwe mayelana nohlelo lokulawula njalo ezinyangeni ezintathu noma esikhathini esifishane kunalesi njengoba kunqume iNkantolo kaMantshi. 35

(5) INkantolo kaMantshi uma umlawuli esefake isicelo noma omunye umuntu noma igatsha elishiwo esigatshaneni soku-(1) inga— 40

(a) khipha umlawuli esikhundleni;

(b) ifake omunye esikhundleni sakhe;

(c) inwebe ithemu yesikhathi esiqokelwe umlawuli noma ichibiyele imigomo yokuqokwa kwakhe; futhi

(d) ingakhipha imiyalelo efana nale yokukhokha izindleko ngendlela iNkantolo kaMantshi ebona ngayo. 45

(6) Imibandela yesigatshana se-(4) nezinguquko ezifanele ezidingekayo ngokwengqikithi iyasebenza uma kuqokwa abaqondisi ngokwemigomo yesigaba sama-46 se-*Sectional Titles Act*.

Ukudiliza noma ukuwisa izakhiwo

17. (1) Isakhiwe esisohlelweni, ngokwalo Mthetho, singadilizwa— 50

(a) ngokudiliza isakhiwo uqobo lwaso;

(b) uma kunquma bonke abanikazi nabo bonke abanikazi bamabhondi ezigceme ezibhalisiwe kanye nabantu abanamalungelo omhlaba abhalisiwe abaqondene, bevumelana nalokhu ngokubhalwe phansi; noma

(c) uma iNkantolo yanelisekile, ngokubheka zonke izimo, ukuthi kufanele futhi kulungile ukuba kudilizwe isakhiwo, futhi yakhipha nomyalelo walokho. 55

(2) Noma nini uma kukhishwe umyalelo ngaphansi kwesigatshana soku-(1)(c), iNkantolo ingathwesa leyo mibandela futhi ikhiphe lezo ziyalo ezibona zifanele ngenjongo yokulungisa umthelela womyalelo ophakathi kwegatsha elilawula uhlelo

the owners, the holders of registered sectional mortgage bonds and persons with registered real rights.

(3) (a) Where the building is damaged or destroyed within the meaning of subsection (1), the owners may by unanimous resolution, or the Court may by order, authorise a scheme— 5

- (i) for the rebuilding and reinstatement in whole or in part of the building;
- (ii) for the transfer of the interests of owners of sections which have been wholly or partially destroyed, to other owners.

(b) In the exercise of their powers under this subsection, the owners may pass such resolution as they may consider fit or the Court may make such order as it may consider necessary or expedient to give effect to the scheme, in connection with amongst other things— 10

- (i) the application of insurance moneys received by the body corporate in respect of damage to or the destruction of the building;
- (ii) the payment of money by or to the body corporate or by or to the owners or by or to one or more of the owners; 15
- (iii) an amendment of the sectional plan so as to include an addition to or a subtraction from the common property;
- (iv) the variation of the quota of any section; or
- (v) the imposition of conditions. 20

(4) An application may, for the purposes of this section, be made to the Court, by the body corporate or by any owner or by any holder of a registered sectional mortgage bond or a registered lease or by any insurer of the building or buildings or any section therein, or by the local municipality.

(5) Any insurer of the building or buildings or any part thereof, has the right to intervene in the proceedings on any application to the Court under this section. 25

(6) (a) The Court may, on the application of a body corporate or any member thereof or administrator or any holder of a registered real right concerned, or any judgment creditor, by order make provision for the winding-up of the affairs of the body corporate.

(b) The Court may, by the same or any subsequent order, declare the body corporate dissolved as from a date specified in the order. 30

(7) The Court may, with regard to any application under this section, make such order for the payment of costs as it considers fit.

(8) Where two or more buildings are comprised in a scheme, and only one or part of one of the said buildings is damaged or destroyed, the provisions of this section apply, with the necessary changes required by the context, as if the said buildings were one building and part of such building has been damaged or destroyed. 35

(9) When in terms of subsection (1) the building comprised in a scheme is considered to be destroyed and the owners have by unanimous resolution resolved not to rebuild the building, the body corporate must lodge with the registrar of deeds a notification in the form and with such supporting documents, as may be prescribed in terms of the Sectional Titles Act. 40

Sectional Titles Schemes Management Advisory Council

18. (1) There is hereby established a Sectional Titles Schemes Management Advisory Council, which must— 45

- (a) make recommendations to the Minister concerning any matter specified in section 19 in respect whereof the Minister may make regulations;
- (b) keep the implementation of this Act and the regulations under regular review and must make recommendations to the Minister with regard to any amendments thereof or other action which may be advisable; and 50
- (c) advise the Minister on any matter referred to it by the Minister.

(2) The Advisory Council consists of not more than seven but not less than five members of whom—

- (a) one must be the chief ombud, who must act as chairperson at the meetings of the Advisory Council; 55
- (b) one must be a senior official of the department designated by the Director-General; and

lwesigceme nabanikazi futhi ophakathi kwabanikazi, abanikazi bamabhondi ezigceme ezibhalisiwe kanye nabantu abanamalungelo omhlaba abhalisiwe.

(3) (a) Uma isakhiwo siwiswa noma sidilizwa ngokwenzazelo yesigatshana soku-(1), abanikazi banganquma bonke, noma iNkantolo ngomyalelo ingagunyaza uhlelo—

- (i) lokwakha kabusha kanye nokubuyisela sonke noma ingxenye yesakhiwo; 5
- (ii) lokudlulisela inzuzo yabanikazi bezigceme ezidilizwe zonke noma ingxenye, kwabanye abanikazi.

(b) Uma besebenzisa igunya labo ngaphansi kwalesi sigatshana, abanikazi bangagunyaza lesi sinqumo ngendlela ababona ukuthi ifanele noma iNkantolo ingenza lo myalelo ngendlela ebona ukuthi ifanele noma iwusizo ohlelweni, okubandakanya izinto ezifana—

- (i) nesicelo semali yomshwalense otholwa igatsha elilawula uhlelo lwesigceme ngomonakalo kanye nokudiliza isakhiwo;
- (ii) ukukhokhwa kwemali igatsha elilawula uhlelo lwesigceme noma ikhokhelwa lona noma ikhokhelwa abanikazi noma ikhokhwa abanikazi noma kumnikazi oyedwa noma abangaphezulu koyedwa; 15
- (iii) ukuchibiyela uhlelo lwesigceme ukuze lubandakanye indawo yomphakathi ukwengeza kulokho noma ukususa lokhu kulokho;
- (iv) ukuhlukana kwezabelo zesigceme; noma
- (v) ukuthwesa imibandela. 20

(4) Isicelo, ngokwalesi sigaba, singenziwa eNkantolo, igatsha elilawula uhlelo lwesigceme noma umnikazi noma onebhondi yesigceme esibhalisiwe noma ngesivumelwano sokuqasha esibhalisiwe noma obhalisa imishwalense wezakhiwo noma esinye isigceme kulokhu, noma umasipala wendawo.

(5) Obhalisa imishwalense yeesakhiwo noma ngezakhiwo noma ngengxenye yaso, unelungelo lokungenelela ezinyathelweni zomthetho esicelweni esifakwe eNkantolo ngaphansi kwalesi sigaba. 25

(6) (a) INkantolo, esicelweni segatsha elilawula uhlelo lwesigceme noma selungu laso noma umlawuli noma sonamalungelo omhlaba abhalisiwe oqondene, noma ohambe phambili ecaleni lesikweletu, angenza umbandela ngomyalelo wokuqeda izindaba zegatsha elilawula uhlelo lwesigceme. 30

(b) INkantolo ngomyalelo ofanayo noma olandela lowo, ingamemezela ukushabalalisa igatsha elilawula uhlelo lwesigceme kusukela ngosuku oluvezwe umyalelo.

(7) INkantolo, mayelana nesicelo esingaphansi kwalesi sigaba, ingenza umyalelo wokuba kukhokhwe izindleko ngendlela ebona ukuthi ifanele. 35

(8) Uma kuhlangukwe izakhiwo ezimbili noma ezingaphezulu ohlelweni, futhi kuzowiswa noma kuzodilizwa esisodwa noma ingxenye yesisodwa kulezi zakhiwo, kusebenza imibandela yalesi sigaba, noshintsho olufunele oluhambisana nengqikithi, sengathi lezi zakhiwo bekuyisakhiwo esisodwa futhi ingxenye yalesi sakhiwo iwisiwe noma idiliziwe. 40

(9) Uma ngokwemigomo yesigatshana soku-(1) isakhiwo esisohlelweni kufanele sidilizwe futhi abanikazi benqume bonke ukuba singakhiwa kabusha isakhiwo, igatsha elilawula uhlelo lwesigceme kufanele lifake isicelo kunobhala wezigceme ngendlela, futhi esinemibhalo eseka lokhu, enqunywe ngokwemigomo ye-*Sectional Titles Act*. 45

UMkhandlu Oluleka Ngezokuphatha Izinhlelo Zezigceme

18. (1) Ngakho-ke kuzosungulwa uMkhandlu Oluleka Ngokuphatha Izinhlelo Zwesigceme osunguliwe—

- (a) wenze izincomo kuNgqongqoshe ezimayelana nodaba oluvezwe esigabeni se- 19 lapho uNgqongqoshe angenza khona izimiso zomthetho; 50
- (b) ugcine ukusebenza kwalo Mthetho kanye nezimiso zomthetho ngokubuyekeza njalo futhi kufanele enze izincomo kuNgqongqoshe ezimayelana nezichibiyelo zawo noma esinye isenzo esifanele; futhi
- (c) ululeke uNgqongqoshe mayelana nodaba olunikezwe uNgqongqoshe.

(2) UMkhandlu Olulekayo wakhiwe amalungu angekho ngaphezu kwesikhombisa kodwa angekho ngaphansi kwayisihlanu kuwona— 55

- (a) oyedwa kufanele kube ngumpheni omkhulu wezikhazazo ozimele, okufanele asebenze njengosihlalo emihlanganweni yoMkhandlu Olulekayo;
- (b) oyedwa kufanele kube ngumsebenzi osesikhundleni esiphezulu emnyangweni oqokwe nguMqondisi-Jikelele; futhi 60

- (c) the remainder must be persons appointed by the Minister who must have skills, knowledge and experience in the management of a range of types of schemes.
- (3) The Minister must appoint one of the members of the Advisory Council as the deputy chairperson. 5
- (4) (a) Before the Minister makes an appointment in terms of subsection (2)(c), the Director-General must, on such terms as he or she considers appropriate, establish a nomination committee consisting of not more than seven persons who are broadly representative two of whom must be the chairpersons of the relevant parliamentary committees in each house or their delegates, to nominate persons who meet the requirements of subsection (2)(c) for consideration for appointment to the Advisory Council by the Minister. 10
- (b) The persons nominated in terms of paragraph (a) must be broadly representative in such a manner as may be prescribed.
- (5) A member of the Advisory Council holds office for a period of three years, but the Minister may on reasonable grounds terminate the appointment of such a member at any time before the expiration of such member's period of office. 15
- (6) If a member of the Advisory Council dies or vacates office before the expiration of that member's period of office, the Minister may, subject to the provisions of subsection (2)(c), appoint a person in that member's place for the unexpired period of his or her office. 20
- (7) A member of the Advisory Council whose period of office has expired, may be reappointed but may not serve for more than two consecutive terms.
- (8) A member of the Advisory Council, excluding a member in the fulltime service of the State, must, while he or she is engaged in the business of the Advisory Council, be paid such remuneration and travelling and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine. 25
- (9) In the absence of the chief ombud or his or her deputy, the members present in the meeting of the Advisory Council must elect a member from amongst themselves to act as chairperson of the Advisory Council for the purpose of such meeting. 30
- (10) (a) The Advisory Council must meet at such times and places as are determined by the chief ombud.
- (b) The Minister may at any time direct the chief ombud to convene a meeting of the Advisory Council at a time and place determined by the Minister.
- (11) (a) Five members of the Advisory Council form a quorum for a meeting. 35
- (b) A decision of a majority of the members of the Advisory Council present at any meeting of the Advisory Council constitutes a decision of the Advisory Council and, in the event of an equality of votes, the person presiding at the meeting must have a casting vote in addition to his or her deliberative vote.
- (12) The Advisory Council may regulate the proceedings at its meetings as it may think fit, and must cause minutes of such proceedings to be kept. 40
- (13) The administrative functions of the Advisory Council must be performed by the employees of the Community Schemes Ombud Service referred to in section 3 of the Community Schemes Ombud Service Act, 2010, who are designated by the chief ombud for that purpose. 45

Regulations

19. The Minister may after consultation with Parliament make regulations regarding—

- (a) any matter required or permitted to be prescribed by regulation under this Act; and 50
- (b) generally, any matter that is necessary or expedient to prescribe for the proper implementation of this Act.

Amendment of Act 95 of 1986

20. The Sectional Titles Act, 1986 (Act No. 95 of 1986), is hereby amended to the extent set out in the third column of the Schedule. 55

- (c) abanye kufanele kuba ngabantu abaqokwe uNgqongqoshe okufanele babe namakhono, ulwazi nolwazi lomsebenzi lokusingatha izinhlobonhlobo ezahlukene zezinhlelo.
- (3) UNgqongqoshe kufanele aqoke ilungu elilodwa kumalungu oMkhandlu Wezokululeka njengephini likasihlalo. 5
- (4) (a) Ngaphambi kokuba uNgqongqoshe aqoke ngokwemigomo yesigatshana sesi-2(b) uMqondisi-Jikelele kufanele, ngaleyo migomo abona ifanele, asungule ikomidi elizophakamisa amagama abantu elakhiwo abantu abangadlulile kwabayisikhombisa abazomela ngokubanzi ababili babo kufanele babe ngosihlalo bamakomidi aqondene ephalamende endlini ngayinye noma ababadlulisele amandla, kuhlanganisa abesilisa kanye nabesifazane, ukuba liphakamise abantu abadingekayo esigatshaneni sesi-2(b) ukuba kubhekwe ukuba baqokelwe uMkhandlu Olulekayo uNgqongqoshe. 10
- (b) Abantu abaphakanyisiwe ngokwemigomo yendima (a) kufanele bamele ngokubanzi ngendlela enganqunywa.
- (5) Ilungu loMkhandlu Olulekayo lizosebenza isikhathi esiyiminyaka emithathu, kodwa uNgqongqoshe ngezizathu ezizwakalayo, angamisa ukuqokwa kwalelo lungu noma nini ngaphambi kokuba kuphele isikhathi sokusebenza kwalelo lungu. 15
- (6) Uma ilungu loMkhandlu Olulekayo lidlula emhlabeni noma lishiya emsebenzini ngaphambi kokuba liphelelwe isikhathi sokusebenza, uNgqongqoshe, ngokwemibandela yesigatshana sesi-(2)(b), angaqoka umuntu esikhundleni salelo lungu leso sikhathi esisasele sesikhundla salo. 20
- (7) Ilungu loMkhandlu Olulekayo eseliphelelwe isikhathi lingaqokwa futhi kodwa ngeke lisebenze izikhawu ezimbili zilandelana.
- (8) Ilungu loMkhandlu Olulekayo, kungabandakanyi ilungu elisebenza ngokugcwele kwezombuso, kufanele, ngesikhathi lisasebenza kuMkhandlu Olulekayo, likhokhelwe inkokhelo futhi nezindleko zokuhamba kanye nezabelo zokuziphilisa njengoba uNgqongqoshe ekanye noNgqongqoshe Wezezimali benqumile. 25
- (9) Uma engekho umphenyi omkhulu wezikhhalazo ozimele noma iphini lakhe, amalungu akhona emhlanganweni woMkhandlu Wokululeka kufanele akhethe ilungu kwamanye ukuba lisebenze njengosihlalo woMkhandlu Olulekayo kulowo mhlango. 30
- (10) (a) Umkhandlu Olulekayo kufanele uhlangane ngalezi zikhathi futhi ezindaweni ezinqunywe umphenyi omkhulu wezikhhalazo ozimele.
- (b) UNgqongqoshe noma nini angayalela umphenyi omkhulu wezikhhalazo ozimele ukuba abambe umhlangano woMkhandlu Olulekayo ngesikhathi futhi endaweni enqunywe uNgqongqoshe. 35
- (11) (a) Amalungu ayisihlanu oMkhandlu Olulekayo, kufanele babe ingxenye yenani eligunyaza umhlangano.
- (b) Isinqumo samalungu amaningi oMkhandlu Olulekayo akhona emhlanganweni woMkhandlu Olulekayo kufanele kube isinqumo soMkhandlu Olulekayo futhi, uma amavoti elingana, umuntu ongusihlalo emhlanganweni kufanele abe novoti elingunqamulajuqu ukwengeza evotini lakhe laphambilini. 40
- (12) UMkhandlu Olulekayo ungalawula izithangamu zemihlangano yawo ngendlela obona ngayo, futhi kufanele ugcine amaminithi alezo zithangamu.
- (13) Imisebenzi yokuphatha yoMkhandlu Wokululeka kufanele yenziwe abasebenzi bezokusingatha izinhlelo zesigceme abashiwo esigatsheni sesi-3 soMthetho Wokusingatha Izinhlelo Zezigceme, wezi-2010, abaqokwe umphenyi omkhulu wezikhhalazo ozimele. 45

Izimiso zomthetho

19. UNgqongqoshe ngemuva kokuxoxisana nePhalamende angenza izimiso zomthetho ezimayelana— 50
- (a) nodaba okufanele noma oluvunyelwe ukuba lunqunywe ngesimiso somthetho ngaphansi kwalo Mthetho; futhi
- (b) ngokujwayelekile, udaba okufanele noma oludingekayo ukunquma ngendlela efanele yokusebenzisa lo Mthetho.

Ukuchibiyela uMthetho wama-95 we-1986 55

20. I-Sectional Titles Act, 1986 (Act No. 95 of 1986), ichibiyelwe ngendlela ebekwe kukholamu yesithathu yeSithasiselo.

Transitional arrangements

21. Rules prescribed under the Sectional Titles Act must continue to apply to new and existing schemes until the Minister has made regulations prescribing management rules and conduct rules referred to in section 10(2) of this Act.

Short title and commencement

5

22. (1) This Act is called the Sectional Titles Schemes Management Act, 2011, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.
(2) Different dates may be fixed in respect of different provisions of this Act.

Amalungiselelo esikhashana

21. Imithetho enqunywe ngaphansi kwe-*Sectional Titles Act* kufanele iqhubeke isebenze ezinhlelweni ezintsha kanye nezisebenzayo uNgqongqoshe aze enze izimiso zomthetho ezinquma ngemithetho yokuphatha kanye nemithetho yenqubo yokuziphatha eshiwo esigatsheni sesi-10(2) salo Mthetho. 5

Isihloko esifingqiwe nokuqala ukusebenza komthetho

22. (1) Lo Mthetho ubizwa ngokuthi uMthetho Wokusingatha Izinhlelo Zezigceme, wezi-2011, futhi uzoqala ukusebenza ngosuku oluzonqunywa uMongameli ngesimemezelo kuSomqulu.

(2) Izinsuku ezihlukene zinganqunywa mayelana nemibandela ehlukene kulo 10 Mthetho.

SCHEDULE

AMENDMENT OF THE SECTIONAL TITLES ACT, 1986

(ACT NO 95 OF 1986)

SECTION 19

No. and Year of Act	Short title	Extent of repeal or amendment
Act No. 95 of 1986	Sectional Titles Act, 1986	1. Substitution for the long title of the following long title: “To provide for the division of buildings into sections and common property and for the acquisition of separate ownership in sections coupled with joint ownership in common property; the control of certain incidents attaching to separate ownership in sections and joint ownership in common property; the transfer of ownership of sections and the registration of sectional mortgage bonds over, and real rights in, sections; the conferring and registration of rights in, and the disposal of, common property; [the establishment of bodies corporate to control common property and for that purpose to apply rules;] and the establishment of a sectional titles regulation board; and to provide for incidental matters.”.
		2. The amendment of section 1— (a) by the substitution for the definition of “body corporate” of the following definition: “ ‘body corporate’ means the body corporate as defined in the Sectional Titles Schemes Management Act;”; (b) by the insertion after the definition of “building” of the following definition: “ ‘chief ombud’ means the chief ombud as defined in the Community Schemes Ombud Service Act, 2011;”;

ISITHASISELO

UKUCHIBIYELA UMTHETHO WEZIGCEME, WE-1986

(UMTHETHO WAMA-95 WE-1986)

ISIGABA SE-19

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyele ngayo	
Act No. 95 of 1986	i-Sectional Titles Act, 1986	1. Ukufaka endaweni yesihloko esicacisayo lesi sihloko esicacisayo esilandelayo: “Ukuhlinzekela ngokuhlukanisa izakhiwo ngeziceme kanye nendawo yomphakathi kanye nokuthola ubunikazi obuhlukene beziceme obuhambisana nobunikazi obuhlanganyelwe endaweni yomphakathi; ukulawula izehlakalo ezihambisana nobunikazi obuhlukene beziceme kanye nobunikazi obuhlanganyelwe endaweni yomphakathi; ukudlulisela ubunikazi beziceme kanye nokubhalisa amabhondi eziceme, kanye namalungelo omhlaba, iziceme, ukuthwesa kanye nokubhalisa amalungelo, kanye nokuhlela, indawo yomphakathi; [ukusungula amagatsha alawula uhlelo lwesiceme ukuba alawule indawo yomphakathi futhi ngaleyo njongo kusetshenziswe imithetho;] kanye nokusungula ibhodi lezimiso zomthetho zeziceme; kanye nokuhlinzekela izindaba ezihambisana nawo.”.	5 10 15 20 25 30 35
		2. Ukuchibiyela isigaba soku-1— (a) ngokufa endaweni yencazelo “yegatsha elilawula uhlelo lwesiceme” le ncazelo elandelayo: “ <u>‘igatsha elilawula uhlelo lwesiceme’</u> , lichaza igatsha elilawula uhlelo njengoba lichazwe eMthethweni Wokusingatha Izinhlelo Zezigceme;”; (b) ngokushutheka ngemuva kwencazelo “yesakhiwo” le ncazelo elandelayo: “ <u>‘umphenyi omkhulu wezikhhalazo’</u> uchaza umphenyi omkhulu wezikhhalazo ozimele njengoba kuchaziwe eMthethweni Wophiko Oluphenya Ngezikhhalazo Zezinhlelo Zomphakathi, wezi-2011;”; 	40 45 50 55

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>(c) by the substitution for paragraph (b) of the definition of “developer” of the following paragraph: “(b) for the purposes of rebuilding any building that is deemed to have been destroyed, as contemplated in section [48] 17 of the <u>Sectional Titles Schemes Management Act</u>, the body corporate concerned.”;</p> <p>(d) by the substitution for the definition of “rules of the following definition: “‘rules’ means rules as defined in section 1 of the <u>Sectional Titles Schemes Management Act</u>.”;</p> <p>(e) by the insertion after the definition of “sectional title register” the following definition: “<u>Sectional Titles Schemes Management Act</u>” means the <u>Sectional Titles Schemes Management Act, 2010</u>.”; and</p> <p>(f) by the repeal of— (i) subsection (2); (ii) subsection (3); and (iii) subsection (3A).</p>
		<p>3. The amendment of section 11 by the substitution in subsection (3) for paragraph (e) of the following paragraph: “(e) a certificate by [a conveyancer] the Chief Ombud stating that the rules [prescribed in terms of section 35(2)] contemplated in section 10 of the <u>Sectional Titles Schemes Management Act</u> [are applicable, and containing the other rules (if any) substituted by the developer for those rules as contemplated in that section] have been approved;”.</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	
		<p>(c) ngokufaka endaweni yendima (b) incazelo “yomsunguli othuthukisa ukwakhiwa kwezigceme” ngale ndima elandelayo: “(c) ngenjongo yokwakha kabusha isakhiwo okuthathwa ngokuthi sidiliziwe, njengoba kuveziwe esigatsheni sama- [40] 17 soMthetho Wokusingatha Izinhlelo Zomphakathi, wegatsha elilawula uhlelo lwezigceme eliqondene.</p> <p>(d) ngokufaka endaweni yezincazelo “imithetho, isinqumo esikhethekile kanye nesinqumo sabantu bonke” zalezi zincazelo ezilandelayo, ngokulandelana: “ <u>‘imithetho’</u> ichaza imithetho njengoba ichazwe eMthethweni Wokusingatha Uhlelo Lwesigceme;”;</p> <p>(e) ngokushutheka ngemuva kwencazelo “iregista yezigceme” le ncazelo elandelayo: “uMthetho Wokusingatha Izinhlelo Zezigceme, wezi-2011;”; futhi</p> <p>(f) ngokuchitha— (i) isigatshana sesi-(2); (ii) isigatshana sesi-(3); kanye (iii) nesigatshana sesi-(3A).</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
		<p>3. Ukuchibiyela isigaba se-11 ngokufaka endaweni yesigatshana sesi-(3) sendima (e) le ndima elandelayo: “(e) isitifiketi [sommeli obhalisa izindlu] uMphenyi <u>Omkhulu Wezikhulazo</u> esiveza ukuthi [imithetho enqunywe ngokwemigomo yesigaba isigaba sama-35(2)] eveziwe esigatsheni se-10 soMthetho Wokusingatha Izinhlelo Zezigceme [iyasebenza, futhi equkethe eminye imithetho (uma ikhona) eshintshwayo umsunguli othuthukisa ukwakhiwa kwezindlu njengoba kuvezwe kuleso sigaba];” igunyaziwe;”.</p>	<p>35</p> <p>40</p> <p>45</p>

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>4. The amendment of section 15B—</p> <p>(a) by the substitution in subsection (3)(a) for subparagraph (i)(aa) of the following subparagraph:</p> <p style="padding-left: 40px;">“(i) (aa) if a body corporate is deemed to be established in terms of section [36(1)] 2(1) of the Sectional Titles Schemes Management Act, that body corporate has certified that all moneys due to the body corporate by the transferor in respect of the said unit have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof; or”;</p> <p>and</p> <p>(b) by the substitution in subsection (3)(b) for subparagraph (ii) of the following subparagraph:</p> <p style="padding-left: 40px;">“(ii) the transfer will result in the establishment of a body corporate in terms of section [36] 2 of the Sectional Titles Schemes Management Act.”.</p>
		<p>5. The amendment of section 17—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) The owners and holders of a right of extension contemplated in section 25 may [by unanimous resolution], if authorised in terms of section 5(1)(a) of the Sectional Titles Schemes Management Act direct the body corporate on their behalf to alienate common property or any part thereof, or to let common property or any part thereof under a lease, and thereupon the body corporate shall notwithstanding any provisions of section 20 of the Deeds Registries Act, but subject to compliance with any law relating to the subdivision of land or to the letting of a part of land, as the</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibi-yelwe ngayo	5
		<p>4. Ukuchibiyela isigaba se-15B—</p> <p>(a) ngokufaka endaweni yesigatshana sesi-(3)(a) sendimana (i)(aa) le ndimana elandelayo:</p> <p>“(i) (aa) uma igatsha elilawula uhlelo lwesigceme kufanele lisungulwe ngokwemigomo yesigaba sama-<u>[36(1)], 2(1) soMthetho Wokusingatha Izinhlelo Zezigceme</u>, lelo gatsha elilawula uhlelo lwesigceme ligunyazile ukuthi zonke izimali okufanele zikhokhelwe igatsha elilawula uhlelo lwesigceme zikhokhwa odlulisela ubunikazi bendawo mayelana naleyo yunithi ziyakhokhwa, noma lowo mbandela uyenziwa ukugculisa igatsha elilawula uhlelo lwesigceme wokukhokhwa kwayo; noma”; futhi</p> <p>(b) ngokufaka endaweni yesigatshana sesi-(3)(b) sendimana (ii) le ndimana elandelayo:</p> <p>“(ii) ukudlulisela kuzoholela ekusunguleni igatsha elilawula uhlelo lwesigceme ngokwemigomo yesigaba sama-<u>[36] 2 soMthetho Wokusingatha Izinhlelo Zezigceme.</u>”.</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
		<p>5. Ukuchibiyela isigaba se-17—</p> <p>(a) ngokufaka endaweni yesigatshana soku-(1) isigatshana esilandelayo:</p> <p>“(1) Abanikazi kanye nabanelungelo lokunweba njengoba kuvazwe esigatsheni sama-25 <u>[ngesinqumo sabantu bonke] uma begunyaziwe ngokwemigomo yoMthetho Wokusingatha Izinhlelo Zezigceme</u> bangayalela igatsha elilawula uhlelo lwesigceme ukuba libamele linikezele ngobunikazi bendawo yomphakathi noma ingxenyeye yayo, noma liqashe indawo yomphakathi noma ingxenyeye yayo ngaphansi kwesivumelwano sokuqashisa, futhi lapho igatsha elilawula uhlelo lwesigceme nakuba kuneminye imibandela yesigaba sama-20 se-<i>Deeds Registries Act</i>,</p>	<p>40</p> <p>45</p> <p>50</p> <p>55</p>

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>case may be, have power to deal with such common property or such part thereof in accordance with the direction, and to execute any deed required for the purpose: Provided that if the whole of the right referred to in section 25 or section 60(1)(b) is affected by the alienation of common property, such right shall be cancelled by the registrar with the consent of the holder thereof on submission of the title to the right.”; and</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) Any transaction [in pursuance of a resolution] referred to in subsection (1) shall be accompanied by a copy of the [relevant resolution] <u>authorisation concerned</u>, certified by two trustees of the body corporate: Provided that where the transaction in question requires to be notarially executed, such [resolution] <u>authorisation</u> so certified shall be produced to the notary public concerned and be retained by him or her in his or her protocol.”.</p>
		<p>6. The amendment of section 19—</p> <p>(a) by the repeal of subsections (1) and (2); and</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p>“(3) The provisions of section 17(3)(a) and (b) of this Act and sections 31(4) and 32(4) of the Deeds Registries Act shall apply <i>mutatis mutandis</i> to a transfer pursuant to an expropriation of land or a servitude or other real right in land comprising common property <u>as contemplated in section 12 of the Sectional Titles Schemes Management Act.</u>”.</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	5
		<p>futhi ngokulandela umthetho ohlobene nokuhlukaniswa komhlaba noma wokuqashisa ngengxenyeyomhlaba, noma okunye kwalokhu, kufanele libe negunya lokubhekana naleyo ndawo yomphakathi noma leyo ngxenyeyayo ngokulandela umyalelo, futhi lenze okufanele kule njongo: Inqobo nje uma lonke ilungelo elithwesiwe esigatsheni sama-25 noma esigatsheni sama-60(1)(b) elibangelwe ukudlulisela ubunikazi bendawo yomphakathi, lelo lungelo kufanele lihoxiswe unobhala ngokuvumelana nalowo othweswe lona ngesikhathi kuhanjiswa itayitela lelungelo.”; futhi (b) ngokufaka endaweni yesigatshana sesi-2 salesi sigatshana esilandelayo:</p> <p>“(2) Ukudayiselana [ngokulandela isinqumo] okushiwo esigatshaneni soku-(1) kufanele kuhambisane [nekhophi yesinqumo esiqondene] nokugunyazwa okuqondene, okugxivazwe abangamele indawo yegatsha elilawula uhlelo lwesigceme abaqondene: Inqobo nje uma lokho kuthengiselana kufanele kukhishwe ngabantu ababili, lokho kugunyaza [isinqumo] esigunyaziwe kufanele sikhishelwe umphakathi oqondene futhi asigcine esikhundleni sakhe.”.</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
		<p>6. Ukuchibiyela isigaba se-19—</p> <p>(a) ngokuchitha isigatshana soku- (1) neses-(2); futhi</p> <p>(b) ngokufaka endaweni yesigatshana sesi-(3) lesi sigatshana esilandelayo:</p> <p>“(3) Imibandela yesigaba se-17(3)(a) kanye no-(b) salo Mthetho kanye nezigaba sama-31(4) kanye nama-32(4) ze-Deeds Registries Act kufanele zisebenze kubandakanya nezinguquko ezenziwe zokunikezela okuhambisana nokudliwa komhlaba noma nombandela wokusebenzisa indawo nomunye umuntu noma nelinye ilungelo lomhlaba elihlanganisa indawo yomphakathi njengoba kuvazwe esigatsheni se-12 soMthetho Wokusingatha lzinhlelo Zezigceme.”.</p>	<p>40</p> <p>45</p> <p>50</p> <p>55</p>

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>7. The amendment of section 21 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) If an owner of a section proposes to subdivide his or her section or to consolidate two or more sections registered in his or her name, he or she shall [with the consent of the trustees of the body corporate, which consent shall not unreasonably be withheld] if authorised in terms of section 7(2) of the <u>Sectional Titles Schemes Management Act</u>, cause the land surveyor or architect concerned to submit the draft sectional plan of subdivision or consolidation, as the case may be, to the Surveyor-General for approval.”.</p>
		<p>8. Amendment of section 24 by the substitution for subsection (3) of the following subsection:</p> <p>“(3) If an owner of a section proposes to extend the boundaries or floor area of his or her section, he or she shall [with the approval of the body corporate authorised by a special resolution of its members] if authorised in terms of section 5(1)(h) of the <u>Sectional Titles Schemes Management Act</u>, cause the land surveyor or architect concerned to submit a draft sectional plan of the extension to the Surveyor-General for approval.”.</p>
		<p>9. The amendment of section 25—</p> <p>(a) by the repeal of subsection (3);</p> <p>(b) by the substitution in subsection (5A) for paragraph (b) of the following paragraph:</p> <p>“(b) If the developer or his or her successor in title fails to take such steps and fails to register the relevant plan of extension within 90 days of completion for occupation of the unit, the developer or his or her successor in title shall be liable to the body corporate for the amounts payable in terms of section</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	
		7. Ukuchibiyela isigaba sama-21 ngokufaka endaweni yesigatshana soku-(1) isigatshana esilandelayo: “(1) Uma umnikazi wesigceme ephakamisa ukuhlukanisa futhi isigceme sakhe noma ukuhlanganisa izigceme ezimbili noma ezingaphezulu ezibhaliswe egameni lakhe, kufanele [ngokuvumelana nabangamele indawo yegatsha elilawula uhlelo lwesigceme, leyo mvume okungafanele igodlwe ngokungafanele,] uma kugunyaziwe <u>ngokwemigomo yesigaba sesi-7(2) soMthetho Wokusingatha Izinhlelo Zezigceme</u> , anikeze isizathu sokuba umhloli wezemihlaba noma umklami wokwakhiwa kwezindlu oqondene ahambise uhlaka oluhlongozwayo lokuhlukanisa futhi noma lokuhlanganisa uhlelo lwesigceme, noma okunye kwakho, kuMhloli-Jikelele ukuba lugunyazwe.”.	5 10 15 20 25
		8. Ukuchibiyela isigaba sama-24 ngokufaka endaweni yesigatshana sesi-(3) isigatshana esilandelayo: “(3) Uma umnikazi wesigceme ephakamisa ukunweba imingcele noma ibala laphansi esigcemeni sakhe, kufanele [ngokuvumelana nabangamele indawo yegatsha elilawula uhlelo lwesigceme, leyo mvume okungafanele igodlwe ngokungafanele,] uma kugunyaziwe <u>ngokwemigomo yesigaba sesi-5(1)(h) soMthetho Wokusingatha Izinhlelo Zezigceme</u> anikeze isizathu sokuba umhloli wezomhlaba noma umklami wokwakhiwa kwezindlu oqondene ahambise uhlaka oluhlongozwayo lokunweba uhlelo lwesigceme kuMhloli-Jikelele ukuze lugunyazwe.”.	30 35 40 45
		9. Ukuchibiyela isigaba sama-25— (a) ngokuchitha isigatshana sesi-(3); (b) Ngokufaka endaweni yesigatshana (5A) sendima (b) le ndima elandelayo: “(b) Uma umsunguli othuthukisa ukwakhiwa kwezindlu noma olandela esikhundleni ehluleka ukuthatha lezi zinyathelo futhi ehluleka ukubhalisa uhlelo lokunweba oluqondene zingakapheli izinsuku ezingama-90 zokuyeka ukuhlala kuyunithi, umsunguli othuthukisa	50 55

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>[37(1)] 3(1)(b) of the Sectional Titles Schemes Management Act as if the unit has been included in the relevant sectional title register on the date of completion.”;</p> <p><i>(c)</i> by the substitution for subsection (6) of the following subsection:</p> <p>“(6) If no reservation was made by a developer in terms of subsection (1), or if such a reservation was made and for any reason has lapsed, the right to extend a scheme including the land contemplated in section 26, shall vest in the body corporate, which shall be entitled, subject to this section, <u>section 5(1)(b) of the Sectional Titles Schemes Management Act</u> and after compliance, with the necessary changes, with the requirements of paragraphs <i>(a)</i>, <i>(b)</i>, <i>(c)</i>, <i>(d)</i> and <i>(g)</i> of subsection (2), to obtain a certificate of real right in the prescribed form in respect thereof [Provided that the body corporate shall only exercise or alienate or transfer such right with the written consent of all the members of the body corporate as well as with the written consent of the mortgagee of each unit in the scheme: Provided further that a member or mortgagee shall not withhold such approval without good cause in law].”;</p> <p><i>(d)</i> by the substitution for subsection (6A) of the following subsection:</p> <p>“(6A) If no reservation has been made by a developer in terms of subsection (1) and the body corporate has not yet been established in</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	
		<p>ukwakhiwa kwezindlu noma olandela esikhundleni kufanele akhokhele igatsha elilawula uhlelo lwesigceme isamba esikhokhwayo ngokwemigomo yesigaba sama- [37(1)] 3(1)(b) soMthetho Wokusingatha Izinhlelo Zezigceme sengathi iyunithi ibandakanywe esigcemeni esibhalisiwe esiqondene ngosuku aphothula ngalo.”;</p> <p>(c) ngokufaka endaweni yesigatshana sesi-(6) lesi sigatshana esilandelayo: “(6) Uma kungekho okukhishe- lwe eceleni umsunguli othuthukisa ukwakhiwa kwezindlu ngokwemi- gomo yesigatshana soku-(1), noma kwenziwa futhi ngesizathu esithile kwadlulelwa isikhathi, ilungelo lokunweba uhlelo kubandakanya umhlaba ovezwe esigatsheni sama- 26, kufanele lithweswe igatsha elilawula uhlelo lwesigceme, futhi okufanele libe nelungelo, ngokwa- lesi sigaba, isigaba sesi-5(1)(b) soMthetho Wokusingatha Izinhlelo Zezigceme futhi ngemuva kokula- ndela, izinguquko ezifanele, nezi- mfanelo zezindima (a), (b), (c), (d) kanye no-(g) zesigatshana sesi-(2), lithole isitifiketi selungelo lomhlaba ngendlela enqunyiwe mayelana nawo: [Inqobo nje uma igatsha elilawula uhlelo lwesigceme lizo- seenzisa kuphela noma lidlulisele ubunikazi noma linikezele lelo lungelo ngemvume ebhalwe phansi amalungu wonke egatsha elilawula uhlelo lwesigceme futhi nangemvume ebhalwe phansi yombolekisi webhondi yeyunithi ngayinye ohlelweni: Futhi inqobo nje uma ilungu noma umbolekisi wemali yebhondi engeke agodle leyo mvume ngaphandle kwesiza- thu sezomthetho].”; futhi</p> <p>(d) ngokufaka endaweni yesigatshana sesi-(6A) lesi sigatshana esilandelayo: “(6A) Uma kungekho okukhi- shelwe celeni umsunguli othuthu- kisa ukwakhiwa kwezigceme ngo- kwemigomo yesigatshana soku-(1)</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>terms of section 2(1) of the Sectional Titles Schemes Management Act, the registrar may issue a certificate of real right of extension as contemplated in section 12(1)(e) on application by the developer accompanied by the sectional mortgage bond and the written consent of any bondholder and such of the documents contemplated in subsection (2) as are applicable.”.</p>
		<p>10. The amendment of section 26— (a) by the repeal of subsection (1); and (b) by the substitution for subsection (2) of the following subsection: “(2) Land purchased or otherwise acquired by [and registered in the name of a] the body corporate in terms of [subsection (1)] section 5(1)(d) of the Sectional Titles Schemes Management Act shall be deemed to be owned by the owners of the sections in the building concerned in the same proportion as their participation quota as reflected on the relevant sectional plan.”.</p>
		<p>11. The amendment of section 27— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(c) If a developer ceases to be a member of the body corporate as contemplated in section [36(2)] 2(2) of the Sectional Titles Schemes Management Act, any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond.”;</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	
		<p>futhi igatsha elilawula uhlelo lwesigceme lingakasungulwa ngokwemigomo yesigaba ses-2(1) soMthetho Wokusingatha Izenhlelo Zomphakathi, unobhala angakhipha isitifiketi selungelo lomhlaba sokunweba njengoba kuveziwe esigatsheni se-12(1)(e) ngesikhathi umsunguli othuthukisa ukwakhiwa kwezigceme efaka isicelo sihambisane nebhondi kanye nemvume ebhalwe phansi yabanikazi bebhondi kanye neminye imiqulu ezeziwe esigatshaneni sesi-(2) esebenzayo.”.</p>	5 10 15
		<p>10. Ukuchibiyela isigaba sama-26— (a) ngokuchitha isigatshana soku-(1); futhi (b) ngokufaka endaweni yesigatshana sesi-(2) isigatshana esilandelayo: “(2) Umhlaba othengwe igatsha elilawula uhlelo lwesigceme ngokwemigomo [yesigatshana soku-(1)] yesigaba sesi-5(1)(d) soMthetho Wokusingatha Izenhlelo Zezigceme kufanele uthathwe ngokuthi owabanikazi bezigceme esakhiweni esiqondene ngendlela yezabelo zabo eziyingxenywe njengoba kuvezwe ohlelweni lwesigceme oluqondene.”.</p>	20 25 30
		<p>11. Ukuchibiyela isigaba sama-27— (a) ngokufaka endaweni yesigatshana soku-(1) indima (c) yendima elandelayo: “(c) Uma umsunguli othuthukisa ukwakhiwa kwezindlu eyeka ukuba ilungu legatsha elilawula uhlelo lwesigceme [njengoba kuvezwe esigatsheni sama-36(2)] soMthetho Wokusingatha Izenhlelo Zomphakathi, ilungelo lokusebenzisa indawo ngokukhethekile elisabhaliswe egameli lakhe lithweswa igatsha elilawula uhlelo lwesigceme ngaphandle kwesivumelwano sebhondi.”;</p>	35 40 45

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>(b) by the substitution for subsection (1A) of the following subsection:</p> <p>“(1A) [Notwithstanding section 27(1)(a), if] <u>If no reservation was made by a developer in terms of subsection (1) and the body corporate has not yet been established in terms of section 2(1) of the Sectional Titles Schemes Management Act, the registrar may issue a certificate of real right in respect of a right of exclusive use as contemplated in section 12(1)(f) on application by the developer accompanied by the sectional mortgage bond and the written consent of any bondholder.</u>”;</p> <p>(c) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) A body corporate [duly authorized thereto by a unanimous resolution of its members,] may, subject to the provisions of section 5(1) of this Act and <u>section 5(1)(d) of the Sectional Titles Schemes Management Act</u>), request an architect or land surveyor to apply to the Surveyor-General for the delineation on a sectional plan in the manner prescribed of a part or parts of the common property in terms of section 5(3)(f) for the exclusive use by the owner or owners of one or more sections: Provided that no such delineation shall be made on the sectional plan in terms of this subsection if such delineation will encroach upon a prior delineation on the sectional plan of a part of the common property for the exclusive use by one or more of the owners.”;</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyele ngayo	5
		<p>(b) ngokufaka endaweni yesigatshana sesi-(1A) isigatshana esilandelayo: “(1A) [Nakuba kunesigaba sama-27(1)(a), uma] Uma kungekho okukhishelwe celeni umsunguli othuthukisa ukwakhiwa kwezigceme ngokwemigomo yesigatshana soku-(1) futhi igatsha elilawula uhlelo lwesigceme lingakasungulwa ngokwemigomo yesigaba sesi-2(1) soMthetho Wokusingatha Izinhlelo Zomphakathi, unobhala angakhipha isitifiketi selungelo lomhlaba sokunweba njengoba kuvenziwe esigatsheni se-12(1)(f) ngesikhathi umsunguli othuthukisa ukwakhiwa kwezigceme efaka isicelo sihambisane nebhondi kanye nemvume ebhalwe phansi yabani-kazi bebhondi.”</p> <p>(c) ngokufaka endaweni yesigatshana sesi-(2) isigatshana esilandelayo: “(2) Igatsha elilawula uhlelo lwesigceme, [eligunyazwe ngesinqumo samalungu wonke, kufanele lidlulisele] ngokwemibandela yesigaba sesi-5(1) salo Mthetho kanye nesigaba sesi-5(1)(d) soMthetho Wokusingatha Izinhlelo Zomphakathi), lingacela umdwebi wezindlu noma umhloli wemihlaba ukuba afake isicelo kuMhloli Wemihlaba-Jikelele sokwakha ohlelweni lwesigceme ngendlela enqunyiwe ingxenye noma izingxenye zendawo yomphakathi ngokwemigomo yesigaba sesi-5(3)(f) ukusebenzisa ngokukhethekile komnikazi nom akwabanikazi isigceme esisodwa noma ezingaphezulu: Inqobo nje uma kungeke kwakhiwe ohlelweni lwesigceme ngokwemigomo yalesi sigatshana uma ukwakha kuzophazamisa okwakhiwe phambilini ohlelweni lwesigceme ingxenye yendawo yomphakathi esetshenziswa ngokukhethekile umnikazi oyedwa noma abangaphezulu koyedwa.”;</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p>

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>(d) by the substitution for subsection (3) of the following subsection: “(3) [The body corporate, duly authorised thereto by a unanimous resolution of its members, shall transfer the] <u>A right to the exclusive use of a part or parts of the common property delineated on the sectional plan in terms of subsection (2) shall be transferred to the owner or owners on whom such right has been conferred by the body corporate by the registration of a notarial deed entered into by the parties and in which the body corporate shall represent the owners of all the sections as transferor.</u>”; and</p> <p>(e) by the substitution in subsection (4) for paragraph (b) of the following paragraph: “(b) If an owner ceases to be a member of the body corporate [as contemplated in section 36(2),] <u>in terms of section 2(3) of the Sectional Titles Schemes Management Act, any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond.</u>”.</p>
		12. Repeal of section 27A.
		<p>13. The amendment of section 29 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “The owners may [by special resolution], <u>if duly authorised in terms of section 5(1)(g) the Sectional Titles Schemes Management Act, direct the body corporate—</u>”.</p>

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyele ngayo	5
		<p>(d) ngokufaka endaweni yesigatshana sesi-3 lesi sigatshana esilandelayo: “(3) [Igatsha elilawula uhlelo lwesigceme, eligunyazelwe lokhu ngesinqumo samalungu wonke, kufanele lidlulisele] Ilungelo lokusebenzisa ngokukhethekile ingxenyeye noma izingxenyeye zendawo yomphakathi eyakhiwe ohlelweni lwesigceme ngokwemigomo yesigatshana sesi-(2) kufanele kudluliselwe kumnikazi noma kubanikazi okudluliselwe kubona lawa malungelo igatsha elilawula uhlelo lwesigceme ngokubhalisa itayitela lalezi zingxenyeye lapho igatsha elilawula uhlelo lwesigceme kufanele liwanikeze abanikazi bazo zonke izigceme ezidluliselwe.”; futhi</p> <p>(e) ngokufaka endaweni yesigatshana sesi-4 Sendima (b) le ndima elandelayo: “(b) Uma umnikazi eyeka ukuba ilungu legatsha elilawula uhlelo lwesigceme [njengoba kuvezwe esigatsheni sama-36(2),] ngokwemigomo yesigaba sesi-2(3) soMthetho Wokusingatha Izenhlelo Zezigceme, ilungulo lokusebenzisa indawo ngokukhethekile elibhaliswe egameni lakhe lithweswa igatsha elilawula uhlelo lwesigceme ngaphandle kwebhondi.”.</p>	10
		12. Ukuchitha isigaba sama-27A.	30
		<p>13. Ukuchibiyela isigaba sama-29 ngokufaka endaweni yesigatshana soku-(1) amagama andulela indima (a) alawa magama alandelayo: “Abanikazi [ngesinqumo esikhethekile] uma begunyaziwe ngokwemigomo yesigaba sesi-5(1)(g) soMthetho Wokusingatha Izenhlelo Zezigceme, bangayalela igatsha elilawuka uhlelo lwesigceme—”.</p>	40
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No. and Year of Act	Short title	Extent of repeal or amendment
		<p>14. The substitution for section 31 of the following section:</p> <p>“Deeds Registries Act and implied servitudes</p> <p>31. The provisions of the Deeds Registries Act shall not apply with reference to servitudes or restrictions as to user implied under this Act, and such servitudes and restrictions shall take effect and be enforceable immediately upon the establishment of the body corporate <u>in terms of the Sectional Titles Schemes Management Act.</u>”.</p>
		<p>15. The amendment of section 32—</p> <p>(a) by the substitution for subsection (3) of the following subsection:</p> <p><u>“(3) The quota of a section shall determine the undivided share in the common property of owner of the section.”</u>; and</p> <p>(b) by the repeal of subsection (4).</p>
		<p>16. The amendment of section 34 by the substitution in subsection (4) for paragraph (b) of the following paragraph:</p> <p><u>“(b) there is produced to the registrar a certificate by a conveyancer confirming that, if a body corporate is deemed to have been established in terms of section [36(1)] 2(1) of the Sectional Titles Schemes Management Act, that body corporate has certified that all moneys due to the body corporate by the transferor in respect of the units concerned have been paid or provision for the payment thereof has been made to the satisfaction of the body corporate.”</u>.</p>
		17. Repeal of section 35.

No. and Year of Act	Short title	Extent of repeal or amendment
		<p>18. Amendment of section 36—</p> <p>(a) by the substitution for subsections (1), (2) and (3) of the following subsections:</p> <p>“(1) <u>When a unit is registered in the name of any person other than the developer, the registrar must issue a certificate in the prescribed form.</u></p> <p>(2) <u>The effect of the registration referred to in subsection (1) is the establishment of a body corporate for the scheme, in terms of the Sectional Titles Schemes Management Act.</u></p> <p>(3) <u>The registrar must lodge a copy of the certificate referred to in subsection (1) with the chief ombud.”; and</u></p> <p>(b) by the repeal of subsections (4) to (7).</p>
		19. Repeal of sections 37 to 48.
		<p>20. The amendment of section 49 by the substitution (1) of the following subsection:</p> <p>“(1) When in terms of section [48] 17(3) of the <u>Sectional Titles Schemes Management Act</u> the building or buildings comprised in a scheme is or are deemed to be destroyed and the owners have [by unanimous resolution] resolved not to rebuild the building or buildings, the body corporate [shall] <u>must, subject to section 17(9) of the Sectional Titles Schemes Management Act, lodge with the registrar a notification in the prescribed form of such destruction and a copy of the relevant resolution of the owners as certified by two trustees of the body corporate.”;</u></p>
		21. Repeal of section 51.
		22. The amendment of section 55 by the repeal of paragraph (k).

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo	
		<p>18. Ukuchibiyela isigaba sama-36— (a) ngokufaka endaweni yesigatshana soku-(1), (2) nsesi-(3) lezi zigatshana ezilandelayo: <u>“(1) Uma iyunithi ibhaliswa egameni lanoma ubani ngaphandle komsunguli othuthukisa ukwakhiwa kwezindlu, unobhala kufanele akhiphe isitifiketi ngendlela enqunyiwe.</u> <u>(2) Ukuqala ukusebenza koku-bhalisiwe okuvezwe esigatshaneni soku-(1) kuyoba ukusungulwa kwegatsha elilawula uhlelo lwesigceme kulolo hlelo, ngokwemigomo yoMthetho Wokusingathwa Kwezinhlelo Zomphakathi.</u> <u>(3) Unobhala kufanele afake ikhophi yesitifiketi esishiwo esigatshaneni soku-(1) kumphenyi omkhulu wezikhhalazo.”; futhi</u> (b) ngokuchitha izigatshana sesi-(4) nsesi-(7)</p>	5 10 15 20 25
		19. Ukuchitha izigaba zama-37- ukuya kuma-48 .	
		<p>20. Ukuchibiyela isigaba sama-49 ngokufaka endaweni yoku- (1) isigatshana esilandelayo: <u>“(1) Um ngokwemigomo yesigaba sama-[48] 17(3) soMthetho Wokusingatha Izinhlelo Zezigceme, isakhiwo noma izakhiwo eziyingxenye yohlelo kufanele siwiswe noma zidilizwe futhi abanikazi [benqume bonke] ukungasakhi kabusha isakhiwo noma izakhiwo, igatsha elilawula uhlelo lwesigceme [kufanele] ngokwesigaba se-17(9) soMthetho Wokusingatha Izinhlelo Zezigceme, lifake isaziso kunobhala ngendlela enqunyiwe mayelana nokudiliza kanye nekhophi lesinqumo esiqondene sabanikazi esifungelwe ngokomthetho sabangamele indawo yegatsha elilawula uhlelo lwesigceme ababili.”;</u></p>	30 35 40 45
		21. Ukuchitha isigaba sama-51.	50
		22. Ukuchibiyela isigaba sama-55 ngokuchitha indima (k).	

No. and Year of Act	Short title	Extent of repeal or amendment
		23. The amendment of section 60 by the repeal of subsections (4) to (8).
		24. The amendment of section 60A by the repeal of subsections (4) to (8).

Inombolo kanye Nonyaka woMthetho	Isihloko esifingqiwe	Indlela ochithwe ngayo noma ochibiyelwe ngayo
		23. Ukuchibiyela isigaba sama-60 ngokuchitha izigatshana sesi-(4) ukuya kwesesi-(8).
		24. Ukuchibiyela isigaba sama-60A ngokuchitha izigatshana sesi-(4) ukuya kwesesi-(8).

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