

**Sectional Titles Schemes
Management Act, 8 of 2011**

and

**Sectional Titles Schemes
Management Regulations, 2016**

Sectional Titles Schemes Management Act, 8 of 2011 **1**

Sectional Titles Schemes Management Regulations, 2016 **29**

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Preamble

Commencement Date: 7 October 2016

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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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Sectional Titles Schemes Management Act, 8 of 2011

1. Definitions

(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);

"**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;

"**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;

"**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);

"**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;

"**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;

"**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-

- (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;

"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;

"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 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;

"prescribed" means prescribed by regulation;

"quota", in relation to a section or the owner of a section, means the participation quota of that section;

"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;

"scheme" means a development scheme;

"section" means a section shown as such on a sectional plan;

"sectional mortgage bond" means a mortgage bond hypothecating-

- (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
- (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;

"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
- (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;

"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;

"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-
 - (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.

(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-
 - (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.

2. Bodies corporate

- (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.
- (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.
- (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.
- (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-
 - (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
 - (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.
 - (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

- (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).
- (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.
- (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.

3. Functions of bodies corporate

- (1) A body corporate must perform the functions entrusted to it by or under this Act or the rules, and such functions include-
 - (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);
 - (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
 - (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;
 - (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;
 - (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 parts;

- (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;
- (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;
- (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;
- (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;
- (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;
- (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;
- (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;
- (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

- (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.
- (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.
- (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.
- (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.
- (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.

4. Powers of bodies corporate

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;
- (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;
- (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;
- (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);
- (i) to do all things reasonably necessary for the enforcement of the rules and for the management and administration of the common property.

5. Additional powers of bodies corporate

- (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;
 - (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 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.
 - (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;
 - (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;
 - (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
 - (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
 - (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.

6. Meetings of bodies corporate

- (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.
- (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

- (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.
- (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
 - (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.
- (9) A body corporate or an owner who is unable to obtain a special or unanimous resolution may approach the chief ombud for relief.

7. Trustees of body corporate

- (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.
- (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.
- (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.

8. Fiduciary position of trustees

- (1) Each trustee of a body corporate must stand in a fiduciary relationship to the body corporate.
- (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
- (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
 - (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-
 - (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.

9. Proceedings on behalf of bodies corporate

- (1) An owner may initiate proceedings on behalf of the body corporate in the manner prescribed in this section-
 - (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
 - (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.
 - (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-
- (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.
- (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*.
- (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.
- (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.
- (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.

10. Rules

- (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-
- (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
 - (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).

- (3) The management or conduct rules contemplated in subsection (2) must be reasonable and apply equally to all owners of units.
- (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.
 - (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.
 - (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.
- (6) The body corporate must-
 - (a) keep a copy of all rules;
 - (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.
- (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-
 - (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.
- (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.
- (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.
 - (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.
- (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, 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 apply: 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.
- (12) Any rules made under the Sectional Titles Act are deemed to have been made under this Act.

11. Effect of quotas and variation thereof

- (1) Subject to subsection (2), the quota of a section must determine-
- (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.
- (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.
- (b) Where an owner is adversely affected by such a decision of the body corporate, his or her prior written consent must be obtained.
- (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.

12. Expropriation of common property

(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- (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.

(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-

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

13. Duties of owners

(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;
- (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;
- (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;
- (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;
- (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.

(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.

14. Insurance by owners

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

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

(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.
- (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).
- (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.

16. Appointment of administrators

(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.

(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
- (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.

(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.

- (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-
 - (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)-
 - (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.
- (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.

17. Destruction of or damage to buildings

- (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
 - (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 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-
 - (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-
 - (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;
 - (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.
- (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.
- (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.
- (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.
- (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.

18. Sectional Titles Schemes Management Advisory Council

- (1) There is hereby established a Sectional Titles Schemes Management Advisory Council, which must-
 - (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
 - (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;
 - (b) one must be a senior official of the department designated by the Director-General; and
 - (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.
- (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.
 - (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.
- (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.
- (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.
- (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.
- (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.
 - (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.
- (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.

19. Regulations

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
- (b) generally, any matter that is necessary or expedient to prescribe for the proper implementation of this Act.

20. Amendment of Act 95 of 1986

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.

21. Transitional arrangements

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.

22. Short title and commencement

- (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.

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 | <p>1. Substitution for the long title of the following long title:</p> <p>"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."</p> |
| | | <p>2. The amendment of section 1-</p> <p>(a) by the substitution for the definition of "body corporate" of the following definition:</p> <p style="padding-left: 40px;">" 'body corporate' means the body corporate as defined in the <u>Sectional Titles Schemes Management Act</u>:";</p> <p>(b) by the insertion after the definition of "building" of the following definition:</p> <p style="padding-left: 40px;">" 'chief ombud' means the chief ombud as defined in the <u>Community Schemes Ombud Service Act, 2011</u>:";</p> |
| | | <p>(c) by the substitution for paragraph (b) of the definition of "developer" of the following paragraph:</p> <p style="padding-left: 40px;">"(b) for the purposes of rebuilding any building that is deemed to have been destroyed, as contemplated in section [48] <u>17 of the 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:</p> <p style="padding-left: 40px;">" '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:</p> <p style="padding-left: 40px;">"<u>Sectional Titles Schemes Management Act</u>" means the <u>Sectional Titles Schemes Management Act, 2011</u>;" and</p> <p>(f) by the repeal of-</p> <p style="padding-left: 40px;">(i) subsection (2);</p> <p style="padding-left: 40px;">(ii) subsection (3); and</p> <p style="padding-left: 40px;">(iii) subsection (3A).</p> |
| | | <p>3. The amendment of section 11 by the substitution in subsection (3) for paragraph (e) of the following paragraph:</p> <p style="padding-left: 40px;">"(E) a certificate by [a conveyancer] <u>the Chief Ombud</u> stating that the rules [prescribed in terms of section 35(2)] <u>contemplated in section 10 of the 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</p> |

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| | | approved;". |
| | | <p>4. The amendment of section 1 SB- (a) by the substitution in subsection (3)(a) for subparagraph (i)(aa) of the following subparagraph:</p> <p>"(i) (aa) if a body corporate is deemed to be established in terms of section [36(1)] <u>2(1) of the Sectional Titles Schemes Management Act</u>, 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"; and</p> <p>(b) by the substitution in subsection (3)(b) for subparagraph (ii) of the following subparagraph:</p> <p>"(ii) the transfer will result in the establishment of a body corporate in terms of section [36] 2 of the <u>Sectional Titles Schemes Management Act</u>."</p> |
| | | <p>5. The amendment of section 17-</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>"(1) The owners and holders of a right of extension contemplated in section 25 may [by unanimous resolution], if authorised in terms of <u>section 5(1)(a) of the Sectional Titles Schemes Management Act</u> 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 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 die substitution for subsection (3) of the following subsection:</p> <p>"(3) The provisions of section 17(3)(o) 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> |

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| | | <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 <i>the</i> consent of the trustees of the body corporate, which consent shall not unreasonably be withheld] <u>if authorised in terms of section 7(2) of the 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] <u>if authorised in terms of section 5(1)(h) of the 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[37(1)] <u>3(1)b: of the Sectional Titles Schemes Management Act</u> as if the unit has been included in the relevant sectional title register on the date of completion.";</p> <p>(c) 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, section 5(1)(b) of the <u>Sectional Titles Schemes Management Act</u> and after compliance, with the necessary changes, with the requirements of paragraphs (a), (b), (c), (d) and (g) 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]."; and</p> <p>(d) 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 die 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 of extension as contemplated in section <u>12(1)(e)</u> on application by the developer accompanied by the sectional mortgage bond and the written consent of</p> |

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| | | any bondholder and such of the documents contemplated in subsection (2) as are applicable." |
| | | <p>10. The amendment of section 26-</p> <p>(a) by the repeal of subsection (1); and</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>"(2) Land purchased or otherwise acquired by [and registered in the name of a] <u>the</u> body corporate in terms of [subsection (1)] <u>section 5(1)(d) of the Sectional Titles Schemes Management Act</u> 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-</p> <p>(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph:</p> <p>"(c) If a developer ceases to be a member of the body corporate as contemplated in section [36(2)] <u>2(2) of the Sectional Titles Schemes Management Act</u>, 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> <p>(b) by the substitution for subsection (1 A) of the following subsection:</p> <p>"(1A) [Notwithstanding section 27(1)(a), if] If no reservation was made by a developer in terms of subsection (1) and the body corporate has not yet been established <u>in terms of section 2(1) of the Sectional Titles Schemes Management Act</u>, 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.";</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 section 5(1)(d) of the <u>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> <p>(d) by the substitution for subsection (3) of the following subsection:</p> <p>"(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 sub-</u> <u>section (2) shall be transferred</u> 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</p> |

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| | | <p>which the body corporate shall represent the owners of all the sections as transferor."; and (e) by the substitution in subsection (4)</p> <p>for paragraph (b) of the following paragraph:</p> <p>"(b) If an owner ceases to be a member of the body corporate [as contemplated in section 36(2),] in <u>terms of section 2(3) of the Sectional Titles Schemes Management Act</u>, 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> |
| | | 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:</p> <p>"The owners may [by special resolution], if duly authorised in terms of <u>section 5(1)(g) the Sectional Titles Schemes Management Act</u>, direct the body corporate-".</p> |
| | | <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- (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 (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>"(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)] <u>2(1) of the Sectional Titles Schemes Management Act</u>, 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."</p> |
| | | 17. Repeal of section 35. |
| | | <p>18. Amendment of section 36- (a) by the substitution for subsections (1), (2) and (3) of the following subsections:</p> <p><u>"(1) 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><u>(2) 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><u>(3) The registrar must lodge a copy of the certificate referred to in subsection (1) with the chief ombud."</u>; and (b) by the repeal of subsections (4) to (7).</p> |
| | | 19. Repeal of sections 37 to 48. |

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| | | <p>20. The amendment of section 49 by the substitution (1) of the following subsection:</p> <p>"(1) When in terms of section [48] <u>17(3) of the 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,</u> 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.";</p> |
| | | 21. Repeal of section 51. |
| | | 22. The amendment of section 55 by the repeal of paragraph (k). |
| | | 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). |

Sectional Titles Schemes Management Regulations, 2016

Schedule

Arrangement of Sectional Titles Schemes Management Regulations

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Sectional Titles Schemes Management Regulations, 2016

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates-

- (a) "**managing agent**" means any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services;
- (b) "**primary section**" means a section designed to be used for human occupation as a residence, office, shop, factory or for any other type of use allowed in terms of local municipal by-laws, not being a utility section;
- (c) "**scheme management service**" means any financial, secretarial, administrative or other service relating to the administration of a scheme; and
- (d) "**the Act**" means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);
- (e) "**these regulations**" includes the Annexures;
- (f) "**utility section**" means a section which, in terms of local municipality by- laws, is designed to be used as an accessory to a primary section, such as a bathroom, toilet, storeroom, workshop, shed, servant's quarters, parking garage, parking bay or other utility area, not being a primary section.

2. Minimum amounts for reserve fund

For the purposes of section 3(1)(b) of the Act, the minimum amount of the annual contribution to the reserve fund for a financial year being budgeted for, other than the financial year budgeted for at the first general meeting referred to in section 2(8) of the Act, must be determined as follows:

- (a) If the amount of money in the reserve fund at the end of the previous financial year is less than 25 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least 15 per cent of the total budgeted contribution to the administrative fund;
- (b) if the amount of money in the reserve fund at the end of the previous financial year is equal to or greater than 100 per cent of the total contributions to the administrative fund for that previous financial year, there is no minimum contribution to the reserve fund; and
- (c) if the amount of money in the reserve fund at the end of the previous financial year is more than 25 per cent but less than 100 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least the amount budgeted to be spent from the administrative fund on repairs and maintenance to the common property in the financial year being budgeted for.

3. Other risks to be insured against

Other risks against which a body corporate may insure, in terms of section 3 (1)(h) of the Act, are-

- (a) lightning, explosion and smoke;
- (b) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;
- (c) storm, tempest, windstorm, hail and flood;
- (d) earthquake and subsidence;
- (e) water escape, including bursting or overflowing of water tanks, apparatus or pipes;
- (f) impact by aircraft and vehicles; and
- (g) housebreaking or any attempt thereat.

4. Powers of a provisional curator ad litem and curator ad litem

For the purposes of section 9(5) of the Act, the powers of a provisional *curator ad litem* appointed in terms of section 9(3) of the Act or a *curator ad litem* whose appointment has been confirmed by a Court in terms of subsection 9(4) of the Act, in addition to any powers expressly granted by the Court, are-

- (a) to attend, ask questions and speak, but not to vote, at meetings of the body corporate and of its trustees; and
- (b) to inspect and make copies of any information about the affairs of the body corporate relevant to the curator's mandate.

5. Notifications

- (1) The body corporate notification of its service address referred to in section 3(1)(o) of the Act must be substantially in accordance with Form A of Annexure 3.
- (2) The body corporate notification of amendment of rules referred to in section 10(5)(a) of the Act must be substantially in accordance with Form B of Annexure 3.
- (3) The notification by a member to a body corporate of the appointment of a proxy must be substantially in accordance with Form C of Annexure 3.

6. Rules

- (1) Rules, as prescribed and as amended by a body corporate in accordance with section 10 of the Act, must be considered to be and interpreted as laws made by and for the body corporate of that scheme.
- (2) For the purposes of section 10(2)(a) and (b)-
 - (a) Subject to sub-regulations (3), (4), (5) and (6), management rules are as they appear in Annexure 1; and
 - (b) Conduct rules are as they appear in Annexure 2.

- (3) when submitting an application for the opening of a sectional title register a developer may substitute, amend or withdraw management rules number 5(2) and (3), 7, 8(1) and (2) and 12 and may add management rules that are not inconsistent with any other management rule that appears in Annexure 1.
- (4) If the schedule referred to in section 11(3) b of the Sectional Titles Act contains a condition restricting transfer of a unit without the consent of an association whose constitution stipulates that-
 - (a) All members of the body corporate and of the development scheme of which the unit forms part, must be members of that association and;
 - (b) The functions and powers of the body corporate must be assigned to that association; the developer may, when submitting an application for the opening of a sectional title register, substitute any management rule that appears in Annexure 1.
- (5) If at the commencement of the Act the members of a body corporate are all members of an association whose constitution binds its members to assign the functions and powers of the body corporate to that association, the management rules contained in Annexure 1 do not apply.
- (6) The management rules set out in Annexure 1 may be added to, amended or repealed by unanimous resolution of the body corporate: Provided that no such addition, amendment or repeal made be made until such time as there are owners, other than the developer, of at least 30% of the units in the scheme save in the case of a body corporate which is established in a scheme which was approved in terms of the Sectional Title Act, 1971.

7. Broadly representative nature of Advisory Council

For the purposes of section 18(4)(b), persons nominated for consideration for appointment by the Minister to the Advisory Council must be broadly representative of females, males and, where possible, include people with disabilities.

8. Short title and effective date

These Regulations are called the Sectional Titles Schemes Management Regulations, 2016 and will come into operation on the date of publication in the Government Gazette.

ANNEXURE 1

MANAGEMENT RULES

PART 1 INTRODUCTORY

1. Heading

Management rules prescribed in terms of section 10(2)(a) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

2. Interpretation

- (1) In the interpretation of these rules, unless the context indicates otherwise -
- (a) **"adjudicator"** means an adjudicator acting in terms of the Community Schemes Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (b) **"administrator"** means an administrator appointed in terms of section 16 of the Act;
 - (c) **"auditor"** means a person accredited to perform an audit in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005);
 - (d) **"Community Schemes Ombud Service"** means the service established in terms of the Community Scheme Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (e) **"estimated cost"**, for the purposes of rule 22, means the estimated cost to maintain, repair or replace a major capital item;
 - (f) **"expected life"**, for the purposes of rule 22, means the estimated number of years before it is expected that the cost of maintenance, repair or replacement of a major capital item will be incurred;
 - (g) **"executive managing agent"** means a managing agent appointed to carry out all the functions and powers of the trustees in terms of rule 28;
 - (h) **"future development right"** means a right to extend the scheme in terms of section 25 of the Sectional Titles Act;
 - (i) **"major capital item"**, for the purposes of rule 22, means wiring, lighting and electrical systems, plumbing, drainage and storm-water systems, heating and cooling systems, any lifts, any carpeting and furnishings, roofing, interior and exterior painting and waterproofing, communication and service supply systems, parking facilities, roadways and paved areas, security systems and facilities and any other community and recreational facilities;
 - (j) **"managing agent"** means any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services;
 - (k) **"member"** means a member of the body corporate;
 - (l) **"past contribution"**, for the purposes of rule 22, means the funds in the reserve fund of the body corporate in respect of the estimated cost;

- (m) "**primary section**" means a section designed to be used for human occupation as a residence, office, shop, factory or for any other type of use allowed in terms of local municipal by-laws, not being a utility section;
 - (n) "**registered auditor**" means a person as defined in terms of the Auditing Professions Act, 20015((Act No. 26 of 2005);
 - (o) "**registered bondholder**" means the holder of a mortgage bond of whom the body corporate has been notified in terms of section 13(1)(f) of the Act;
 - (p) "**reserve funds**" means an amount set aside by the body corporate to meet the unexpected costs that may arise in future, including future cost of maintenance;
 - (q) "**Sectional Titles Act**" means the Sectional Titles Act, 1986, (Act No. 95 of 1986), as amended;
 - (r) "**service address**" means the service address of a member or the body corporate in terms of rule 4; and
 - (s) "**the Act**" means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);
 - (t) "**utility section**" means a section which, in terms of local municipality by-laws, is designed to be used as an accessory to a primary section, such as a bathroom, toilet, storeroom, workshop, shed, servant's quarters, parking garage, parking bay or other utility area, not being a primary section.
- (2) In the interpretation of these rules -
- (a) words and expressions to which a meaning has been assigned in the Act or its regulations, bear those meanings;
 - (b) words importing-
 - (i) the singular must be interpreted to include the plural, and the plural to include the singular; and
 - (ii) any one gender must be interpreted to include all other genders; and
 - (c) the headings of rules must not be taken into account.

3. Amendment and binding nature

- (1) The body corporate may substitute, amend, repeal, or add to the management rules subject to and in accordance with the provisions of section 10 of the Act.
- (2) A member must take all reasonable steps to ensure compliance with the conduct rules in force in terms of section 10(2)(b) of the Act by any tenant or other occupant of any section or exclusive use area, including the member's employees, guests, visitors and family members.

4. Service addresses

- (1) The body corporate must, from time to time, determine the address that is its *domicilium citandi et executandi* in terms of section 3(1)(o) of the Act; provided that such service address must be-
 - (a) the physical address of a section in the scheme;
 - (b) the physical address of a duly appointed managing agent or administrator;
or
 - (c) another physical address within the magisterial district in which the scheme is located.
- (2) The trustees may designate a fax, email or other address as an alternate body corporate service address.
- (3) A change of a body corporate service address is effective when written notice of that address is lodged with the Community Schemes Ombud Service in the prescribed form.
- (4) The trustees must, when they give the Community Schemes Ombud Service notice of a change of the body corporate service address in terms of section 3(1)(o) of the Act, simultaneously give such written notice to all members and other occupiers of sections and to all registered bondholders.
- (5) The service address for any legal process or delivery of any other document to a member is the address of the primary section registered in that member's name; provided that a member is entitled by written notice to the body corporate to change that address for purposes as contemplated in subsections 6(3)(c) and 6(4) of the Act to another physical address, postal address or fax in the Republic of South Africa or to an email address, and that the change in the service address of the member is effective when the body corporate receives notice of such a change.
- (6) The service address for any legal process or delivery of any other document to an occupier of a section, who is not a member, is the physical address of that section.

PART 2

TRUSTEES

5. Trustees

- (1) All the members are trustees from the establishment of the body corporate until the end of the first general meeting.
- (2) Subject to rules 6(4) and 28(1), if a body corporate consists of less than 4 members who are owners of primary sections, each member or his or her representative recognised by law is considered to be a trustee without election to office.
- (3) If a body corporate consists of more than 4 members who are owners of primary sections, they must from time to time determine the number of trustees to be elected in terms of these rules.

6. Requirements for office and disqualification

- (1) A trustee need not be a member or the legally recognised representative of a member who is a juristic person.
- (2) A person who is the managing agent or an employee of the managing agent or the body corporate may not be a trustee unless that person is a member.
- (3) A trustee who has any direct or indirect personal interest in any matter to be considered by the trustees must not be present at or play any part in the consideration or decision of the matter concerned.
- (4) A trustee ceases to hold office if that trustee-
 - (a) by written notice to the body corporate, resigns from office;
 - (b) is declared by a court to be of unsound mind;
 - (c) is or becomes insolvent and the insolvency results in the sequestration of that trustee's estate;
 - (d) is convicted, or has been convicted in the Republic or elsewhere, of theft, fraud, forgery, perjury or any other offence involving dishonesty;
 - (e) is sentenced to imprisonment without the option of a fine;
 - (f) is removed from an office of trust on account of misconduct in respect of fraud or the misappropriation of money;
 - (g) is removed from office by ordinary resolution of a general meeting; provided the intention to vote on the proposed removal was specified in the notice convening the meeting;
 - (h) is or becomes disqualified to hold office as a director of a company in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
 - (i) fails or refuses to pay the body corporate any amount due by that trustee after a court or adjudicator has given a judgment or order for payment of that amount.

7. Nomination, election and replacement

- (1) A member may nominate any person for the office of trustee.
- (2) The nomination of a trustee must be in writing, accompanied by the written consent of the person nominated and delivered to the body corporate service address at least 48 hours before the annual general meeting is due to start.
- (3) If an insufficient number of nominations are received in terms of sub-rule (2), further nominations may be called for at the annual general meeting with the consent of the persons nominated.
- (4) Save for the provisions of rules 5(1) and (2), trustees must be elected at the first general meeting of the body corporate and then at each subsequent annual general meeting.
- (5) If a trustee ceases to hold office -
 - (a) the remaining trustees; or
 - (b) the members in general meeting, may appoint a replacement trustee.
- (6) An elected or replacement trustee holds office until the end of the next annual general meeting and is eligible for re-election, if properly nominated.
- (7) The trustees may appoint, for a specified period, a person qualified to serve as a trustee as a replacement for any trustee who is absent or otherwise unable to perform the duties of that office.

8. Payment and indemnity

- (1) The body corporate must reimburse trustees for all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.
- (2) Unless so determined by special resolution, trustees who are members are not entitled to any reward, whether monetary or otherwise, for their services as such.
- (3) Trustees who are not members may be rewarded for their services as such; provided that any reward, whether monetary or otherwise, must be approved by a resolution of the body corporate as part of the budget for the scheme's administrative fund.
- (4) The body corporate must indemnify a trustee who is not a managing agent against all costs, losses and expenses arising as a result of any official act that is not in breach of the trustee's fiduciary obligations to the body corporate.

PART 3

TRUSTEE MEETINGS AND DECISIONS

9. General powers and duties

The trustees must-

- (a) meet to carry out the body corporate's business, adjourn and otherwise regulate their meetings as they think fit, subject to the provisions of the Act, these rules and the common law of meetings;
- (b) exercise the body corporate's powers and functions assigned and delegated to them in terms of section 7(1) of the Act in accordance with resolutions taken at general meetings and at meetings of trustees;
- (c) apply the body corporate's funds in accordance with budgets approved by members in general meeting;
- (d) appoint any agent or employee in terms of section 4(a) of the Act in terms of a duly signed written contract; and
- (e) compile minutes of each trustee and general meeting in accordance with rule 27(2)(a) and distribute these to the persons entitled to notice of the meeting concerned as soon as reasonably possible, but not later than 7 days after the date of the meeting.

10. Validity of actions

- (1) No document signed on behalf of the body corporate is valid and binding unless it is signed on the authority of a trustee resolution by -
 - (a) two trustees or the managing agent, in the case of a clearance certificate issued by the body corporate in terms of section 15B(3)(a)(i)(aa) of the Sectional Titles Act; and
 - (b) two trustees or one trustee and the managing agent, in the case of any other document.
- (2) A resolution adopted or other act performed by the trustees remains valid and effective notwithstanding the later discovery of some defect in the appointment of a trustee or the disqualification of a trustee.

11. Calling and attendance at meetings

- (1) A trustee may at any time call a meeting of trustees by giving all other trustees not less than seven days written notice of the time and place of the meeting and by setting out an agenda for the meeting: Provided that -
 - (a) in cases of urgency a trustee may give such shorter notice as is reasonable in the circumstances; and
 - (b) notice need not be given to any trustee who is absent from the Republic unless the meeting is one referred to in sub-rule (5), but notice must be given to any replacement trustee appointed for that trustee.

- (2) The trustees may by written resolution set the dates of and a standard agenda for their future meetings and delivery of a copy of this resolution is considered adequate notice of all such future meetings.
- (3) Members, registered bondholders, holders of future development rights and the managing agent may attend trustee meetings and may speak on any matter on the agenda, but they are not entitled to propose any motion or to vote; provided that such persons are not entitled to attend those parts of trustee meetings that deal with -
 - (a) discussions of contraventions of the Act or rules; or
 - (b) any other matters in respect of which the trustees resolve that the presence of any such persons would unreasonably interfere with the interests of the body corporate or any person's privacy.
- (4) If a member, a registered mortgagee or the holder of a future development right in writing requests notice of trustee meetings, the trustees must deliver to that person a copy of a notice of a meeting referred to in sub-rule (1), a resolution referred to in sub-rule (2) and a notice of any adjournment of such a meeting; provided that the body corporate may recover from the person concerned the costs of delivery of such documents.
- (5) The trustees may make arrangements for attendance at a trustee meeting by telephone or any other method, if the method -
 - (a) is accessible to all trustees and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (6) A person who attends a meeting as provided under sub-rule (5) is considered present in person at the meeting.

12. Chairperson

- (1) If a body corporate consists of only two members, the provisions in these rules in regard to the election and functions of a chairperson do not apply.
- (2) From the establishment of the body corporate until the end of the first general meeting, the developer or the developer's nominee is the chairperson of the trustees.
- (3) At the commencement of the first meeting of trustees after an annual general meeting at which trustees have been elected and whenever else necessary, the trustees must by majority vote elect a chairperson from among their number.
- (4) The chairperson of the trustees holds office as such until the end of the next annual general meeting.
- (5) The trustees at a trustees' meeting or the members at a general meeting may remove the chairperson from office if notice of the meeting contains a clear statement of the proposed removal; provided that such removal does not automatically remove the chairperson from the office of trustee.
- (6) If a chairperson is removed from office as such or ceases to hold office as a trustee, the remaining trustees must elect a replacement chairperson from among

their number who holds office as chairperson for the remainder of the period of office of his or her predecessor and has the same voting rights.

- (7) If the elected chairperson vacates the chair during the course of a trustee meeting, is not present or is for any other reason unable or unwilling to preside, the trustees present must choose another chairperson from among their number and that replacement chairperson has all the powers and functions of the chairperson while acting as such.

13. Quorum

- (1) At a trustee meeting, 50 per cent of the trustees by number, but not less than two, form a quorum.
- (2) If the number of trustees falls below the number necessary to form a quorum, the remaining trustee or trustees may continue to act, but only to-
 - (a) appoint replacement trustees to make up a quorum; or
 - (b) call a general meeting.
- (3) If at any trustee meeting a quorum is not present within 30 minutes of the appointed time for the meeting, the trustees present, but not less than two, must adopt interim resolutions in respect of each item on the agenda.
- (4) An interim resolution adopted by trustees in terms of sub- rule (3) does not take effect unless it is confirmed-
 - (a) at the next trustee meeting at which a quorum is present; or
 - (b) by written resolution signed by all the trustees.

14. Voting

- (1) A motion at a trustee meeting -
 - (a) does not have to be seconded; and
 - (b) must be determined by resolution adopted by the majority of the trustees present and voting.
- (2) Each trustee is entitled to one vote; provided that if the deliberative votes of the trustees, including that of the chairperson, are tied, the chairperson has a casting vote, unless there are only two trustees.
- (3) A trustee is disqualified from voting in respect of -
 - (a) any proposed or current contract or dispute with the body corporate to which the trustee is a party; and
 - (b) any other matter in which the trustee has any direct or indirect personal interest.
- (4) Trustees must adopt decisions by resolutions adopted by majority vote: Provided that resolutions may be put to the vote -
 - (a) at trustee meetings; or
 - (b) by a notice sent to each trustee which contains the text of any proposed resolutions and instructs the trustees to indicate their agreement to the resolution by their signature, which signatures must be received by the body corporate before expiry of the closing date specified in the notice.

PART 4

OWNER MEETINGS

15. Notice

- (1) Subject to sub-rule (7), at least 14 days' written notice of a general meeting specifying the place, date and hour of the meeting must be given to-
 - (a) all members;
 - (b) all registered bondholders;
 - (c) all holders of future development rights; and
 - (d) the managing agent.
- (2) A person who has a right to be notified under this rule may waive that right by notice in writing delivered to the body corporate and may, at any time and in the same way, revoke that waiver; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to notice and any of them may revoke that waiver.
- (3) The notice of a general meeting must be accompanied by at least-
 - (a) an agenda, as required in terms of these rules;
 - (b) a copy or comprehensive summary of any document that is to be considered or approved by members at the meeting; and
 - (c) a proxy appointment form in the prescribed format.
- (4) A general meeting must be held in the local municipal area where the scheme is situated unless the members have by special resolution decided otherwise.
- (5) Registered bondholders, holders of future development rights and the managing agent may attend general meetings and may speak on any matter on the agenda, but they are not, in those capacities, entitled to propose any motion or to vote; provided that such persons are not entitled to attend any part of a general meeting if the members resolve that their presence would unreasonably interfere with the interests of the body corporate or any person's privacy.
- (6) Notice of a general meeting must be delivered to-
 - (a) members at their service addresses in terms of rule 4(5), and
 - (b) other persons at the most recent physical, postal, fax or email address of which they have notified the body corporate in writing.
- (7) A general meeting may be called-
 - (a) on 7 days' notice if the trustees have resolved that short notice is necessary due to the urgency of the matter and set out their reasons for this resolution; provided that the trustees must not take such a resolution in regard to a meeting referred to in rule 29(2) or (4);
 - (b) on less than 14 days notice, if this is agreed to in writing by all persons entitled to attend.

- (8) Failure to give proper notice of a general meeting to a person entitled to receive notice does not invalidate a vote taken at the meeting, as long as the body corporate made a reasonable attempt to give the notice.
- (9) Voting at a general meeting may proceed despite the lack of notice as required by this rule, if all persons entitled to receive notice in writing waive their right to notice.

16. First general meeting

- (1) The developer must include with the notice of the first general meeting held in terms of section 2(8) of the Act -
 - (a) an agenda in accordance with sub-rule (2);
 - (b) the documents referred to in sub-rule (2); and
 - (c) a comprehensive summary of the rights and obligations of the body corporate under the policies and contracts referred to in sub-rule (2)(d).
- (2) The agenda for the first general meeting of members must include at least the following -
 - (a) a motion to confirm or vary the terms of the policies of insurance effected by the developer or the body corporate;
 - (b) a motion to confirm or vary an itemised estimate of the body corporate's anticipated income and expenses for its first financial year;
 - (c) a motion to approve, with or without amendment, the developer's -
 - (i) evidence 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, as required in terms of section 2(8)(c)(iii) of the Act; and
 - (ii) financial statements relating to the management and administration of the scheme from the date of establishment of the body corporate to the date of notice of the first general meeting referred to in sub-rule (1);
 - (d) subject to section 15(2) of the Act, a motion to ratify or not to ratify the terms of any contract entered into by the developer on behalf of the body corporate;
 - (e) a motion confirming that the developer has -
 - (i) furnished the meeting with copies of the documents referred to in section 2(8) of the Act and in this rule; and
 - (ii) paid over any residue referred to in section 2(9) of the Act;
 - (f) a motion appointing an auditor to audit the evidence and financial statements referred to in sub-rule (2)(c);
 - (g) motions determining the number of trustees and electing trustees;
 - (h) a motion detailing any restrictions to be imposed or directions to be given in terms of section 7(1) of the Act or confirming that there are no such restrictions or directions.
- (3) For the purposes of voting on the items of business referred to in sub-rule (2)(c), (d) and (e), any vote held or controlled by the developer is suspended.

- (4) In addition to the documents referred to in section 2(8) of the Act, the developer must at or before the first general meeting furnish the body corporate with copies of -
 - (a) all building plans approved by the local municipality;
 - (b) any encroachment permit or other document issued by the local municipality in regard to the improvements in the scheme;
 - (c) plans showing the location of all pipes, wires, cables and ducts referred to in section (3)(1)(r) of the Act;
 - (d) names and addresses of all contractors, subcontractors and any other persons whom the developer has employed to render services or supply materials relating to the development of the scheme;
 - (e) all warranties, manuals, schematic drawings, operating instructions, service guides, documentation from manufacturers and other similar information in respect of the construction, installation, operation, maintenance, repair and servicing of any common property or body corporate assets, occupation certificate, including any guarantee or warranty provided to the developer by a person referred to in sub-rule (4) (d); and
 - (f) all records the body corporate is required to prepare or retain in terms of rule 27.
- (5) If the developer fails to provide the body corporate with any document referred to in section 2(8) of the Act or in this rule, the body corporate must do all things reasonably necessary to obtain or have the specific document prepared and may recover the reasonable costs incurred in doing so from the developer.
- (6) If the developer fails to call the first general meeting in compliance with the requirements of section 2(8) of the Act, any member or the body corporate may do so and the body corporate must recover from the developer all costs reasonably incurred in ensuring compliance with the developer's obligations.

17. Annual and special general meetings

- (1) Subject to sub-rule (2), the body corporate must hold an annual general meeting within four months of the end of each financial year.
- (2) The body corporate is not obliged to hold an annual general meeting if, before or within one month of the end of a financial year, all members in writing waive the right to the meeting and consent in writing to motions that deal with all the items of business that must be transacted at the annual general meeting; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolutions in writing.
- (3) All general meetings other than the annual general meeting are special general meetings.
- (4) The trustees may by resolution call a general meeting whenever they think fit and must do so if either-
 - (a) members entitled to 25 per cent of the total quotas of all sections; or
 - (b) the holder of mortgage bonds over not less than 25 per cent in number of all the primary sections, deliver to the body corporate a written and signed request for a special general meeting; provided that if the trustees fail to call

a meeting thus requested within 14 days of delivery of the request, the members or bondholder concerned are entitled to call the meeting.

- (5) Members or a bondholder who request a meeting in terms of sub-rule (4) must include one or more motions or matters for discussion with their request and these motions or matters must be included, without amendment, in the agenda for the meeting.
- (6) The order of business at general meetings is as follows:
 - (a) confirm proxies, nominees and other persons representing members and issue voting cards;
 - (b) determine that there is a quorum;
 - (c) elect a person to chair the meeting, if necessary;
 - (d) present to the meeting proof of notice of the meeting or waivers of notice;
 - (e) approve the agenda;
 - (f) approve minutes from the previous general meeting, if any;
 - (g) deal with unfinished business, if any;
 - (h) deal with any business referred to in sub-rule (5);
 - (i) if the meeting is the first general meeting referred to in section 2(8) of the Act, deal with the business set out in rule 16(2);
 - (j) if the meeting is an annual general meeting -
 - (i) receive reports of the activities and decisions of trustees since the previous general meeting, including reports of committees;
 - (ii) approve the schedules of insurance replacement values referred to in rule 23(3), with or without amendment;
 - (iii) determine the extent of the insurance cover by the body corporate in terms of rules 23(6), (7) and (8);
 - (iv) approve the budgets for the administrative and reserve funds for the next financial year;
 - (v) consider the annual financial statements;
 - (vi) appoint an auditor to audit the annual financial statements, unless all the sections in the scheme are registered in the name of one person;
 - (vii) if the body corporate has more than four members who are owners of primary sections and is not managed by an executive managing agent in terms of rule 28, determine the number of trustees to be elected to serve during the next financial year; and
 - (viii) elect the trustees;
 - (k) report on the lodgment of any amendments to the scheme's rules adopted by the body corporate under section 10 of the Act and, if applicable, table a consolidated set of scheme rules;
 - (l) deal with any new or further business;

- (m) give directions or impose restrictions referred to in section 7(1) of the Act; and
 - (n) dissolve the meeting.
- (7) Subject to sub-rules (5) and (6), the trustees determine the agenda for an annual or special general meeting; provided that the agenda must contain-
- (a) a description of the general nature of all business, and
 - (b) a description of the matters that will be voted on at the meeting, including the proposed wording of any special or unanimous resolution.
- (8) If any of the items of business that require member approval are not approved at an annual general meeting or any adjournment of the meeting; the resolution not to approve the relevant document must include the reasons for non-approval and the body corporate must have the document revised and submitted to another general meeting for approval as soon as reasonably possible, until it is approved.
- (9) The body corporate does not have to hold a special general meeting to consider a resolution if all members waive the right to the meeting and consent to the resolution in writing; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolution in writing.
- (10) A body corporate may make arrangements for attendance at an annual or special general meeting by telephone or any other method, if the method-
- (a) is accessible to all members and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (11) A person who attends a meeting as provided under sub-rule (10) is considered present in person at the meeting.

18. Chairperson

- (1) The chairperson of the trustees must preside as chairperson at every general meeting of the body corporate, unless otherwise resolved by members at the meeting.
- (2) If there is no chairperson or the chairperson of the trustees is not present within 15 minutes after the time appointed for the meeting, or is unwilling or unable to act as chairperson, the members present must elect a chairperson for such meeting.
- (3) A chairperson must-
 - (a) maintain order, regulate the orderly expression of views and guide the members and other participants through the business of the meeting in accordance with the common law of meetings;
 - (b) ensure that all motions and amendments proposed are within the scope of the notice and powers of the meeting;
 - (c) ensure that the scheme's rules, the minute books and any other documents relevant to the items of business on the agenda are available at the meeting;

- (d) act fairly, impartially and courteously to all members and others entitled to attend the meeting;
 - (e) ensure that all members and other persons entitled to speak are able to express their views without unnecessary disturbance or interruption;
 - (f) adjourn the meeting, when it is not able to complete or continue with its business;
 - (g) make decisions on points of procedure;
 - (h) settle disputes by giving rulings on points of order; and
 - (i) surrender the chair to a temporary chairperson elected by the members for any period during which the chairperson wishes to engage in the debate of any item of business.
- (4) A chairperson at a general meeting must not-
- (a) from the chair, attempt to influence members' views on any item of business; or
 - (b) disclose in advance of a vote how the chairperson intends to vote on any item of business .

19. Quorum

- (1) Business must not be transacted at any general meeting unless a quorum is present or represented.
- (2) A quorum for a general meeting is constituted-
 - (a) for a scheme with less than 4 primary sections or a body corporate with less than four members, by members entitled to vote and holding two thirds of the total votes of members in value;
 - (b) for any other scheme, by members entitled to vote and holding one third of the total votes of members in value,

provided that at least two persons must be present unless all the sections in the scheme are registered in the name of one person, and provided further that in calculating the value of votes required to constitute a quorum, the value of votes of the developer must not be taken into account.
- (3) For the purpose of establishing a quorum and for the purposes of section 6 of the Act, the value of votes of any sections registered in the name of the body corporate must not be taken into account and the body corporate must not be considered to be a member.
- (4) If within 30 minutes from the time appointed for a general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time; provided that if on the day to which the meeting is adjourned a quorum as described in sub-rule (2) is not present within 30 minutes from the time appointed for the meeting, the members entitled to vote and present in person or by proxy constitute a quorum.

20. Voting and representatives

- (1) A motion at a general meeting -
 - (a) does not need to be seconded; and

- (b) except for a special or unanimous resolution, must be adopted by resolution of the majority of the votes, calculated in value, of the members present and voting.
- (2) Except for special and unanimous resolutions, a member is not entitled to vote if-
 - (a) a member fails or refuses to pay the body corporate any amount due by that member after a court or adjudicator has given a judgment or order for payment of that amount; or
 - (b) that member persists in the breach of any of the conduct rules of the scheme referred to in section 10(2)(b) of the Act after a court or an adjudicator has ordered that member to refrain from breaching such rule.
 - (3) For the purposes of any vote, the values of votes of any sections registered in the name of the body corporate are considered abstentions.
 - (4) Where a member is as such a trustee for a beneficiary, that member exercises voting rights to the exclusion of persons beneficially interested in the trust and such persons are not entitled to vote.
 - (5) A member's appointment of a proxy in terms of section 6(5) of the Act and the proxy's acceptance of the mandate must, except in the case of an appointment in a mortgage bond, be substantially in the prescribed form and must be-
 - (a) delivered to the body corporate 48 hours before the time of the meeting; or
 - (b) handed to the chairperson before or at the start of the meeting.
 - (6) A proxy need not be a member, but must not be the managing agent or an employee of the managing agent or the body corporate.
 - (7) When two or more persons are entitled to exercise one vote jointly, that vote may be exercised only by one person, who may or may not be one of them, jointly appointed by them as their proxy.
 - (8) The outcome of each vote, including the number of votes for and against the resolution, must be announced by the chairperson and recorded in the minutes of the meeting.
 - (9) If a special resolution is passed at a general meeting by members holding less than 50 per cent of the total value of all members' votes-
 - (a) the body corporate must not take any action to implement that resolution for one week after the meeting, unless the trustees resolve that there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage to the scheme; and
 - (b) within seven days from a resolution referred to in sub-rule 9 (a), members holding at least 25 per cent of the total votes of all members in value may, by written and signed request delivered to the body corporate, require that the body corporate hold a special general meeting to reconsider the resolution.
 - (10) If a demand referred to in sub-rule (9)(b) is delivered to the body corporate, the trustees must not implement the resolution unless-
 - (a) it is again passed by special resolution; or
 - (b) a quorum is not present within 30 minutes of the time set for the meeting.

PART 5

FINANCIAL MANAGEMENT

21. Financial year, functions and powers

- (1) The financial year of a body corporate established after the Act comes into operation must run from the first day of October of each year to the last day of September of the following year unless otherwise resolved by the body corporate in general meeting.
- (2) The body corporate must not-
 - (a) make loans from body corporate funds without the authority of a unanimous resolution;
 - (b) refund to any member a contribution lawfully levied and paid;
 - (c) distribute to a member or any other person any portion of the body corporate's profits or gains except-
 - (i) upon destruction or deemed destruction of the buildings, or
 - (ii) where such profit or gain is of a capital nature.
- (3) The body corporate may, on the authority of a written trustee resolution-
 - (a) levy members with a special contribution if additional income is required to meet a necessary expense that cannot reasonably be delayed until provided for in the budget for the next financial year;
 - (b) increase the contributions due by the members by a maximum of 10 per cent at the end of a financial year to take account of the anticipated increased liabilities of the body corporate, which increase will remain effective until members receive notice of the contributions due by them for the next financial year; provided that the trustees must give members notice of such increased contributions by notice in terms of rule 25, with such changes as are required by the context;
 - (c) charge interest on any overdue amount payable by an member to the body corporate; provided that the interest rate must not exceed the maximum rate of interest payable per annum under the National Credit Act (2005) Act No 34 of 2005) , compounded monthly in arrears;
 - (d) invest any moneys in the reserve fund referred to in sections 3(1)(b) of the Act in a secure investment with any institution referred to in the definition of "financial institution" in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
 - (e) enter into written and signed contracts in respect of its powers and duties under the Act and these rules;
 - (f) join organisations and subscribe to services to further its purposes under the Act and these rules;
 - (g) delegate to one or more of the trustees, to a member, agent or an employee such of their powers and duties as they deem fit, and at any time to revoke such delegation; provided that when they delegate any power or duty they must specify in writing-
 - (i) the power or duty concerned;

- (ii) a maximum amount of the body corporate's funds that may be spent for a particular purpose; and
- (iii) any conditions that may be applicable; and
- (h) approach the Community Scheme Ombud Service for relief.
- (4) The body corporate must ensure that all money received by the body corporate is deposited to the credit of an interest-bearing bank account-
 - (a) in the name of the body corporate; or
 - (b) that is a trust account opened in terms of either the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976), or the Attorneys Act, 1979 (Act No. 53 of 1979).

22. Maintenance, repair and replacement plan

- (1) A body corporate or trustees must prepare a written maintenance, repair and replacement plan for the common property, setting out-
 - (a) the major capital items expected to require maintenance, repair and replacement within the next 10 years;
 - (b) the present condition or state of repair of those items;
 - (c) the time when those items or components of those items will need to be maintained, repaired or replaced;
 - (d) the estimated cost of the maintenance, repair and replacement of those items or components;
 - (e) the expected life of those items or components once maintained, repaired or replaced; and
 - (f) any other information the body corporate considers relevant.
- (2) The annual contribution to the reserve fund for the maintenance, repair or replacement of each of the major capital items must be determined according to the following formula: [(estimated cost minus past contribution) divided by expected life].
- (3) A maintenance, repair and replacement plan takes effect on its approval by the members in general meeting; provided that on approval of such a plan, members may lay down conditions for the payment of money from the reserve fund.
- (4) The trustees must report the extent to which the approved maintenance, repair and replacement plan has been implemented to each annual general meeting.

23. Insurance

- (1) The insurance policies of the body corporate in terms of sections 3(1)(h) and (i) of the Act -
 - (a) must provide cover against -
 - (i) risks referred to in regulation 3;
 - (ii) risks that members resolve must be covered by insurance; and
 - (iii) risks that holders of registered first mortgage bonds over not less than 25 per cent in number of the primary sections by written notice to the body corporate may require to be covered by insurance;

- (b) must specify a replacement value for each unit and exclusive use area, excluding the member's interest in the land included in the scheme; provided that any member may at any time by written notice to the body corporate require that the replacement value specified for that member's unit or exclusive use area be increased;
 - (c) must restrict the application of any "average" clause to individual units and exclusive use areas, so that no such clause applies to the buildings as a whole;
 - (d) must include a clause in terms of which the policy is valid and enforceable by any holder of a registered mortgage bond over a section or exclusive use area against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured, unless and until the insurer terminates the insurance on at least 30 days' notice to the bondholder; and
 - (e) may include provision for "excess" amounts.
- (2) A member is responsible -
- (a) for payment of any additional premium payable on account of an increase in the replacement value referred to in sub-rule (1)(b);
 - (b) for any excess amount that relates to damage to any part of the buildings that member is obliged to repair and maintain in terms of the Act or these rules,
- and must furnish the body corporate with written proof from the insurer of payment of that amount within seven days of written request.
- (3) A body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every three years and present such replacement valuation to the annual general meeting.
- (4) A body corporate must prepare for each annual general meeting schedules showing estimates of -
- (a) the replacement value of the buildings and all improvements to the common property; and
 - (b) the replacement value of each unit, excluding the member's interest in the land included in the scheme, the total of such values of all units being equal to the value referred to in sub-rule 4(a).
- (5) On written request by any registered bondholder and the furnishing of satisfactory proof, the body corporate must record the cession to that bondholder of that member's interest in any of the proceeds of the insurance policies of the body corporate.
- (6) A body corporate must take out public liability insurance to cover the risk of any liability it may incur to pay compensation in respect of-
- (a) any bodily injury to or death or illness of a person on or in connection with the common property; and
 - (b) any damage to or loss of property that is sustained as a result of an occurrence or happening in connection with the common property, for an amount determined by members in general meeting, but not less than 10

million rand or any such higher amount as may be prescribed by the Minister in any one claim and in total for any one period of insurance.

- (7) A body corporate must take out insurance for an amount determined by members in general meeting to cover the risk of loss of funds belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by a trustee, managing agent, employee or other agent of the body corporate.
- (8) A body corporate, authorised by a special resolution of members, may insure any additional insurable interest the body corporate has -
 - (a) in the land and buildings included in the scheme; and
 - (b) relating to the performance of its functions, for an amount determined in that resolution.

24. Administrative and reserve funds

- (1) The administrative fund referred to in section 3(1)(a) of the Act must be used to fund the operating expenses of the body corporate for a particular financial year.
- (2) The reserve fund maintained in terms of section 3(1)(b) of the Act must be used for the implementation of the maintenance, repair and replacement plan of the body corporate referred to in rule 22.
- (3) The following amounts must be paid into the reserve fund -
 - (a) any part of the annual levies designated as being for the purpose of reserves or the maintenance, repair and replacement plan;
 - (b) any amounts received under an insurance policy in respect of damage or destruction of property for which the body corporate is responsible;
 - (c) any interest earned on the investment of the money in the reserve fund;
 - (d) any other amounts determined by the body corporate, and all other body corporate income must be paid into the administrative fund.
- (4) Money may be paid out of the administrative fund in accordance with trustee resolutions and the approved budget for the administrative fund.
- (5) Money may be paid out of the reserve fund -
 - (a) at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan; or
 - (b) if the trustees resolve that such a payment is necessary for the purpose of an urgent maintenance, repair or replacement expense, which purpose includes, without limitation -
 - (i) to comply with an order of a court or an adjudicator;
 - (ii) to repair, maintain or replace any property for which the body corporate is responsible where there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage to persons or property;
 - (iii) to repair any property for which the body corporate is responsible where the need for the repairs could not have been reasonably

foreseen in preparing the maintenance, repair and replacement plan;
or

- (iv) to enable the body corporate to obtain adequate insurance for property that the body corporate is required to insure; provided that the trustees must report to the members on any such expenditure as soon as possible after it is made.
- (6) Expenditure under sub-rule (5)(b) -
- (a) must not exceed-
 - (i) the amount necessary for the purpose for which it is expended; or
 - (ii) any limitation imposed by the body corporate on expenditure; and
 - (b) must comply with any restrictions imposed or directions given by members.

25. Contributions and charges

- (1) The body corporate must, as soon as possible but not later than 14 days after the approval of the budgets referred to in rule 17(6)(j)(iv) by a general meeting, give each member written notice of the contributions and charges due and payable by that member to the body corporate, which notice must-
- (a) state that the member has an obligation to pay the specified contributions and charges; and
 - (b) specify the due date for each payment; and
 - (c) if applicable, state that interest at a rate specified in the notice will be payable on any overdue contributions and charges; and
 - (d) include details of the dispute resolution process that applies in respect of disputed contributions and charges.
- (2) If money owing is not paid on the dates specified in the notice referred to in sub-rule (1), the body corporate must send a final notice to the member, which notice must state-
- (a) that the member has an obligation to pay the overdue contributions and charges and any applicable interest immediately; and
 - (b) if applicable-
 - (i) the interest that is payable in respect of the overdue contributions and charges at the date of the final notice; and
 - (ii) the amount of interest that will accrue daily until the payment of the overdue contributions and charges; and
 - (c) that the body corporate intends to take action to recover the amount due if the overdue contributions and charges and interest owing are not paid within 14 days after the date the final notice is given.
- (3) Subject to rules 21(3) (a) and (b), after the expiry of a financial year and until they become liable for contributions in respect of the next financial year, members are liable for contributions in the same amounts and payable in the same instalments as were due and payable by them during the past financial year.
- (4) A member is liable for and must pay to the body corporate all reasonable legal costs and disbursements, as taxed or agreed by the member, incurred by the

body corporate in the collection of arrear contributions or any other arrear amounts due and owing by such member to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.

- (5) The body corporate must not debit a member's account with any amount that is not a contribution or a charge levied in terms of the Act or these rules without the member's consent or the authority of a judgment or order by a judge, adjudicator or arbitrator.
- (6) The body corporate must in its annual financial statements account for all contributions and any other charges debited to members' accounts.
- (7) On request in writing by a member the body corporate must make available a full and detailed account of all amounts debited and credited to the member's account with the body corporate.

26. Financial records, budgets, reports and audit

- (1) A body corporate must-
 - (a) keep proper books of accounts that-
 - (i) record all its income, expenditure, assets and liabilities;
 - (ii) disclose all amounts recovered from members by the body corporate or any managing agent or other service provider acting on its behalf;
 - (iii) include individual accounts for each member; and
 - (iv) contain all other information necessary to allow members to assess the body corporate's financial situation and their financial situation in regard to the body corporate.
 - (b) keep separate books of account and bank accounts for its administrative and reserve funds referred to in sections 3(1)(a) and (b) of the Act;
 - (c) prepare annual financial statements for presentation at the annual general meeting, which statements must include analyses of the -
 - (i) amounts due to the body corporate in respect of contributions, special contributions and other charges, classified by member and the periods for which such amounts were owed;
 - (ii) amounts due by the body corporate to its creditors generally and prominently disclosing amounts due to any public authority, local municipality or other entity for services including, without limitation, water, electricity, gas, sewerage and refuse removal, classified by creditor and the periods for which such amounts were owed;
 - (iii) amounts advanced to the body corporate by way of levy finance, a loan, in terms of a guarantee insurance policy or otherwise, setting out the actual or contingent liability of the body corporate and the amounts paid by the body corporate and by any member in terms of such arrangement;
 - (iv) amounts in the reserve fund showing the amount available for maintenance, repair and replacement of each major capital item as a percentage of the accrued estimated cost and the rand value of any shortfall;

- (v) premiums and other amounts paid and payments received by the body corporate and any member in terms of the insurance policies of the body corporate and the expiry date of each policy; and
 - (vi) amounts due and payable to the Community Schemes Ombud Service.
- (d) prepare a maintenance, repair and replacement plan in accordance with rule 22 for presentation at the annual general meeting;
 - (e) prepare budgets for the administrative and reserve funds comprising itemised estimates of the anticipated income and expenses during the next financial year for presentation at the annual general meeting; provided that such budgets may include discounts not exceeding 10 per cent of a members' annual contributions applicable if all those contributions are paid on or before the due dates;
 - (f) prepare a report adopted by the trustees reviewing the affairs of the body corporate during the financial year for presentation at the annual general meeting.
- (2) On the application of any member, registered bondholder or of the managing agent, the body corporate must make all or any of the books of account and records available for inspection and copying.
 - (3) The body corporate must ensure that all the body corporate's books of account and financial records are retained for a period of six years after completion of the transactions, acts or operations to which they relate.
 - (4) Unless all the sections in the scheme are registered in the name of one person, the body corporate must present audited financial statements to a general meeting for consideration within four months after the end of the financial year.
 - (5) The audit of a body corporate's annual financial statements-
 - (a) must be carried out by an independent auditor who has not participated in the preparation of the annual financial statements or advised on any aspect of the accounts of the body corporate during the period being reported on;
 - (b) need not be carried out in accordance with any recognized financial reporting framework of guidelines for financial accounting;
 - (c) must include opinions as to whether or not-
 - (i) the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary;
 - (ii) the body corporate has complied with the accounting requirements set out in rules 21, 24 and this rule 26, with a specific description of any failure to comply with such requirements;
 - (iii) the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud; and
 - (iv) the financial affairs of the body corporate appear to be effectively managed;

- (d) must be completed within four months of the end of the body corporate's financial year.

PART 6

ADMINISTRATIVE MANAGEMENT

27. Governance documents and records

- (1) The body corporate must-
 - (a) lodge a notification of an amendment to the scheme's rules referred to in section 10(5) of the Act as soon as reasonably possible, but not later than 10 days after the date of the relevant resolution of the body corporate; and
 - (b) compile and keep a complete set of all management and conduct rules including -
 - (i) an index; and
 - (ii) a prominent reference to any rules that confer exclusive use rights, vary the effects of the participation quotas in regard to the value of votes or the liability for contributions, or impose either a financial or a maintenance obligation on members;
 - (c) prepare a consolidated set of rules whenever they are amended.
- (2) The body corporate must prepare and update the following records -
 - (a) minutes of general and trustee meetings, including the following information-
 - (i) the date, time and place of the meeting;
 - (ii) the names and role of the persons present, including details of the authorisation of proxies or other representative;
 - (iii) the text of all resolutions; and
 - (iv) the results of the voting on all motions;
 - (b) lists of trustees, members and tenants with their-
 - (i) full names;
 - (ii) identity numbers or, in the case of non-South African citizens, their passport numbers; and
 - (iii) section addresses and mailing addresses, if different;
 - (iv) telephone numbers; and
 - (v) email or other electronic addresses, if any;
 - (c) lists of-
 - (i) sections shown on the sectional plan, indicating in each case whether it is a primary or a utility section, its participation quota and the name of the member in whose name it is registered;
 - (ii) exclusive use areas with descriptions of purposes and numbers, if any, indicating whether the rights to each area are conferred in terms of section 27 of the Sectional Titles Act or in terms of a rule, and a reference to the relevant rule where applicable; and

- (iii) registered bondholders with their names and addresses;
 - (d) details of all future development rights including -
 - (i) names and addresses of all registered holders of such rights; and
 - (ii) copies of all documentation prepared in terms of section 25(2) of the Sectional Titles Act for any such right; and
 - (e) any other records required by the regulations.
- (3) The body corporate may obtain and keep copies of all of the following:
- (a) The registered sectional plan and any registered amending sectional plan;
 - (b) the Act and the regulations;
 - (c) resolutions that deal with changes to the common property, including the conferring of exclusive use rights on members;
 - (d) consents and approvals given by the body corporate to members;
 - (e) waivers and consents given by members;
 - (f) written contracts to which the body corporate is a party;
 - (g) any decision of an adjudicator, arbitrator, magistrate or judge in a proceeding in which the body corporate is a party, and any legal opinions obtained by the body corporate;
 - (h) the budget and financial statement for the current year and previous years;
 - (i) income tax returns;
 - (j) insurance policies, endorsement and claim forms;
 - (k) correspondence sent or received by the body corporate and trustees; and
 - (l) any other records required by the regulations.
- (4) On receiving a written request, the body corporate must make the records and documents referred to in this rule available for inspection by, and provide copies of them to -
- (a) a member;
 - (b) a registered bondholder; or
 - (c) a person authorised in writing by a member or registered bondholder.
- (5) The body corporate must comply with a request for inspection or copying under this rule within 10 days unless the request is in respect of the rules, in which case the body corporate must comply with the request within five days.
- (6) The body corporate may charge a fee for a copy of a record or document other than the rules, provided that the fee is not more than the reasonable cost associated with the process of making the copy, and the body corporate may refuse to supply the copy until the fee is paid.
- (7) If the body corporate terminates its contract with an employee or a managing agent, that person must within 10 days deliver to the body corporate all records referred to in this rule that are in the person's possession or under the person's control.

- (8) The records referred to in this rule must be in writing or in a form that can be easily converted to writing.

28. Executive Managing Agent and Managing Agents

- (1) The body corporate may, by special resolution, appoint an executive managing agent to perform the functions and exercise the powers that would otherwise be performed and exercised by the trustees.
- (2) Members entitled to 25 per cent of the total quotas of all sections may apply to the Community Scheme Ombud Service for the appointment of an executive managing agent.
- (3) An executive managing agent -
- (a) is subject to all the duties and obligations of a trustee under the Act and the rules of the scheme;
 - (b) is obliged to manage the scheme with the required professional level of skill and care;
 - (c) is liable for any loss suffered by the body corporate as a result of not applying such skill and care;
 - (d) has a fiduciary obligation to every member of the body corporate;
 - (e) must arrange for the inspection of the common property at least every six months; and
 - (f) must report at least every four months to every member of the body corporate on the administration of the scheme.
- (4) The reports of an executive managing agent referred to in sub-rule (3)(f) must include at least the following details -
- (a) proposed repairs to and maintenance of the common property and assets of the body corporate within the next four months;
 - (b) matters the executive managing agent considers relevant to the condition of the common property and the assets of the body corporate;
 - (c) the balance of each of the administrative and reserve funds of the body corporate on the date of the report and a reconciliation statement for each fund; and
 - (d) for the period since the appointment of the executive managing agent or from the date of the last report -
 - (i) the expenses of the body corporate, including repair, maintenance and replacement costs; and
 - (ii) a brief description of the date and nature of all decisions made by the executive managing agent.
- (5) The body corporate may, if trustees so resolve, and must if required by -
- (a) a registered mortgagee of 25 per cent in number of the primary sections; or
 - (b) a resolution of members, appoint a managing agent to perform specified financial, secretarial, administrative or other management services under the supervision of the trustees.

- (6) A management agreement for any managing agent must comply with the requirements as may be set out in the regulations, .
- (7) A management agreement may not endure for a period longer than three years and may be cancelled, without liability or penalty, despite any provision of the management agreement or other agreement to the contrary -
 - (a) by the body corporate on two months notice, if the cancellation is first approved by a special resolution passed at a general meeting, or
 - (b) by the managing agent on two months notice.
- (8) The body corporate or trustees may by ordinary resolution cancel the management agreement in accordance with its terms or refuse to renew the management agreement when it expires.

PART 7

PHYSICAL MANAGEMENT

29. Improvements to common property

- (1) The body corporate may on the authority of a unanimous resolution make alterations or improvements to the common property that is not reasonably necessary.
- (2) The body corporate may propose to make alterations or improvements to the common property that are reasonably necessary; provided that no such proposal may be implemented until all members are given at least 30 days written notice with details of -
 - (a) the estimated costs associated with the proposed alterations or improvements;
 - (b) details of how the body corporate intends to meet the costs, including details of any special contributions or loans by the body corporate that will be required for this purpose; and
 - (c) a motivation for the proposal including drawings of the proposed alterations or improvements showing their effect and a motivation of the need for them; and if during this notice period any member in writing to the body corporate requests a general meeting to discuss the proposal, the proposal must not be implemented unless it is approved, with or without amendment, by a special resolution adopted at a general meeting.
- (3) A body corporate must, if so directed by a resolution of members -
 - (a) install and maintain separate meters to measure the supply of electricity, water, gas or the supply of any other service to each member's sections and exclusive use areas and to the common property; and
 - (b) recover from members the cost of such supplies to sections and exclusive use areas based on the metered supply.
- (4) A body corporate may on the authority of a special resolution install separate pre-payment meters on the common property to control the supply of water or electricity to a section or exclusive use area; provided that all members and occupiers of sections must be given at least 60 days notice of the proposed resolution with details of all costs associated with the installation of the pre-payment system and its estimated effect on the cost of the services over the next three years.
- (5) If a pre-payment system referred to in sub-rule (4) is installed -
 - (a) the body corporate is responsible to ensure that the system does not infringe on the constitutional rights of section occupiers to access basic services; and
 - (b) any member who leases a unit to a tenant is responsible to ensure that the system does not infringe the rights of the tenant in terms of the Rental Housing Act, 1999 (Act No. 50 of 1999), or any other law.

30. Use of sections and common property

The body corporate must take all reasonable steps to ensure that a member or any other occupier of a section or exclusive use area does not-

- (a) use the common property so as to unreasonably interfere with other persons lawfully on the premises, in breach of section 13(1)(d) of the Act;
- (b) use a section or exclusive use area so as to cause a nuisance, in breach of section 13(1)(e) of the Act;
- (c) contravene the provisions of any -
 - (i) law or by-law relating to the use of a section or an exclusive use area; or
 - (ii) conditions of a license relating to use of the building or the common property, or the carrying on of a business in the building; or
 - (iii) conditions of title applicable to sections or exclusive use areas;
- (d) make alterations to a section or an exclusive use area that are likely to impair the stability of the building or interfere with the use and enjoyment of other sections, the common property or any exclusive use area;
- (e) do anything to a section or exclusive use area that has a material negative affect on the value or utility of any other section or exclusive use area;
- (f) subject to the provisions of section 13(1)(g) of the Act, use a section or exclusive use area for a purpose other than for its intended use as -
 - (i) shown expressly or by implication on a registered sectional plan or an approved building plan ;
 - (ii) can reasonably be inferred from the provisions of the applicable town planning by-laws or the rules of the body corporate; or
 - (iii) is obvious from its construction, layout and available amenities;
- (g) construct or place any structure or building improvement on an exclusive use area which in practice constitutes a section or an extension of the boundaries or floor area of a section without complying with the requirements of the Act and the Sectional Titles Act; provided that the body corporate may by ordinary resolution -
 - (i) give consent for such a structure or building improvement, if they are satisfied that it does not require compliance with such requirements;
 - (ii) prescribe any reasonable condition in regard to the use or appearance of the structure or building improvement; and
 - (iii) withdraw any consent if the member or other occupier of a section breaches any such condition.

31. Obligation to maintain

- (1) Notwithstanding that a water-heating installation forms part of the common property and is insured by the body corporate, a member must maintain, repair and, when necessary, replace such an installation which serves that member's section or exclusive use area; provided that where such an installation serves sections owned or exclusive use areas held by more than one member, the

members concerned must share the maintenance, repair and replacement costs on a pro-rata basis.

- (2) If despite written demand by the body corporate, a member refuses or fails to -
- (a) carry out work in respect of that member's section ordered by a competent authority as required by section 13(1)(b) of the Act; or
 - (b) repair or maintain a section owned by that member in a state of good repair as required by section 13(1)(c) of the Act;

and that failure threatens the stability of the common property, the safety of the building or otherwise materially prejudices the interests of the body corporate, its members or the occupiers of sections generally, the body corporate must remedy the member's failure and recover the reasonable cost of doing so from that member; provided that in the case of an emergency, no demand or notice need be given to the member concerned.

ANNEXURE 2 CONDUCT RULES

Prescribed in terms of section 10(2)(b) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

1. Keeping of animals, reptiles and birds

- (1) The owner or occupier of a section must not, without the trustees' written consent, which must not be unreasonably withheld, keep an animal, reptile or bird in a section or on the common property.
- (2) An owner or occupier suffering from a disability and who reasonably requires a guide, hearing or assistance dog must be considered to have the trustees' consent to keep that animal in a section and to accompany it on the common property.
- (3) The trustees may provide for any reasonable condition in regard to the keeping of an animal, reptile or bird in a section or on the common property.
- (4) The trustees may withdraw any consent if the owner or occupier of a section breaches any condition imposed in terms of sub-rule (3).

2. Refuse and waste disposal

- (1) The owner or occupier of a section must not leave refuse or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by another owner or occupier.
- (2) Unless the body corporate provides some other way to dispose of refuse, the owner or occupier of a section must keep a receptacle for refuse of a type specified by the trustees in a clean and dry condition and adequately covered in the section, or on a part of the common property designated by the trustees for the purpose.
- (3) The owner or occupier of a section must-
 - (a) move the refuse receptacle referred to in sub-rule (2) to places designated by the trustees for collection purposes at the times designated by the trustees and promptly retrieve it from these places; and
 - (b) ensure that the owner or occupier does not, in disposing of refuse, adversely affect the health, hygiene or comfort of the owners or occupiers of other sections.

3. Vehicles

- (1) The owner or occupier of a section must not, except in a case of emergency, without the written consent of the trustees, park a vehicle, allow a vehicle to stand or permit a visitor to park or stand a vehicle on any part of the common property other than a parking bay allocated to that section or a parking bay allocated for visitors' parking.
- (2) A consent under sub-rule (1) must state the period for which it is given.

4. Damage to common property

- (1) The owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.
- (2) An owner or occupier of a section must be considered to have the trustees' consent to install a locking or safety device to protect the section against intruders, or a screen to prevent entry of animals or insects, if the device or screen is soundly built and is consistent with a design, colour, style and materials approved in writing by the trustees.
- (3) The owner or occupier of a section must keep a device installed under sub-rule (2) in good order and repair.

5. Appearance of section and exclusive use area

- (1) The owner or occupier of a section must not, without the trustees' written consent, make a change to the external appearance of the section or any exclusive use area allocated to it unless the change is minor and does not detract from the appearance of the section or the common property.
- (2) The owner or occupier of a section must not, without the trustees' written consent-
 - (a) erect washing lines on the common property;
 - (b) hang washing, laundry or other items in a section or any exclusive use area allocated to it if the articles are visible from another section or the common property, or from outside the scheme; or
 - (c) display a sign, notice, billboard or advertisement if the article is visible from another section or the common property, or from outside the scheme.

6. Storage of flammable materials

- (1) Subject to sub-rule (2), the owner or occupier of a section must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes.
- (2) This rule does not apply to the storage of fuel or gas in-
 - (a) the fuel tank of a vehicle, boat, generator or engine; or
 - (b) a fuel tank or gas cylinder kept for domestic purposes.

7. Behaviour of occupiers and visitors in sections and on common property

- (1) The owner or occupier of a section must not create noise likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.
- (2) The owner or occupier of a section must not obstruct the lawful use of the common property by any other person.
- (3) The owner or occupier of a section must take reasonable steps to ensure that the owner or occupier's visitors do not behave in a way likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.

- (4) The owner or occupier of a section is obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any other grant of rights of occupancy.

8. Eradication of pests

- (1) The owner of a section must keep the section free of wood-destroying insects, including white ants and borer beetles.
- (2) The owner or occupier of a section must allow the trustees, the managing agent, or their duly authorised representatives to enter the section on reasonable notice to inspect it and take any action reasonably necessary to eradicate any such pests and replace damaged woodwork and other materials.
- (3) The body corporate must recover the costs of the inspection and replacement referred to in sub-rule (2) from the owner of the section.

ANNEXURE 3

FORM A

FORM A

**NOTIFICATION OF CHANGE OF BODY CORPORATE
ADDRESS** *Sectional Titles Schemes Management Act, 2011*
– Section 3(1)(o)

| | |
|------------------------------------|------------------------------------|
| Scheme Details: | |
| Name of Scheme: | |
| Sectional Scheme Number / year: | / (first number, if more than one) |
| Local Municipality name: | |

To:

1. Community Scheme Ombud Service
2. Local Municipality: _____ (insert name)
3. Registrar of Deeds: _____ (insert place)

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|---|---|--|---|---|--|---|---|---|---|
| Address Details: (insert below the body corporate's physical service address, its <i>domicilium citandi et executandi</i>) | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | |
| We, the undersigned trustees and (where applicable) managing agent of the body corporate of the above scheme give notice that, in accordance with the requirements of the Act and the rules of the scheme, the body corporate has changed its <i>domicilium citandi et executandi</i> , its address for service of any process, to the above address. | Effective date of address change: <table border="0"><tr><td><input type="text"/></td><td><input type="text"/></td><td>/</td><td><input type="text"/></td><td><input type="text"/></td><td>/</td><td><input type="text"/></td><td><input type="text"/></td><td><input type="text"/></td><td><input type="text"/></td></tr><tr><td>D</td><td>D</td><td></td><td>M</td><td>M</td><td></td><td>Y</td><td>Y</td><td>Y</td><td>Y</td></tr></table> (to be inserted by Service) | <input type="text"/> | <input type="text"/> | / | <input type="text"/> | <input type="text"/> | / | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | D | D | | M | M | | Y | Y | Y | Y |
| <input type="text"/> | <input type="text"/> | / | <input type="text"/> | <input type="text"/> | / | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | |
| D | D | | M | M | | Y | Y | Y | Y | | | | | | | | | | | | |

FROM A

Page 1 of 2

To be signed by two trustees and any managing agent:

| | |
|------------|--|
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |

Confirmation of lodgment of notification:

For Chief Ombud – Community Scheme Ombud Service

| | |
|------------|--|
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |

FROM A

Page 2 of 2

FORM B

NOTIFICATION OF AMENDMENT OF RULES

Sectional Titles Schemes Management Act 2011 – Section 10(5)(a)

| | |
|---------------------------------|------------------------------------|
| Scheme Details: | |
| Name of Scheme: | |
| Sectional Scheme Number / year: | / (first number, if more than one) |
| Local Municipality name: | |

To:

Community Scheme Ombud Service

| | |
|---|---|
| We, the undersigned trustees and <i>(where applicable)</i> managing agent of the body corporate of the above scheme give notice that, in accordance with the requirements of the Act and the rules of the scheme and on the following date, the body corporate made the rules set out in the schedule attached to this notice and initialed by us for identification. | Date rules adopted: <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y <i>(to be inserted before signature)</i> |
|---|---|

To be signed by two trustees and any managing agent:

| | |
|------------|--|
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |
| Name: | Capacity: |
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Confirmation of lodgment of notification:

For Chief Ombud – Community Scheme Ombud Service

| | |
|------------|--|
| Name: | Capacity: |
| Signature: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> D D / M M / Y Y Y Y |

FORM C

NOTIFICATION, APPOINTMENT OF PROXY AND ACCEPTANCE OF MANDATE

Note: In terms of section 6(5) of the Sectional Titles Schemes Management Act 2011 a member must be represented in person or by proxy at meetings of body corporate and a person may not act as a proxy for more than two members of the body corporate.

| | |
|---------------------------------|------------------------------------|
| Scheme Details: | |
| Name of Scheme: | |
| Sectional Scheme Number / year: | / (first number, if more than one) |

To: The Body Corporate

I/We, the undersigned owner(s) and member(s) give notice to the body corporate of the above scheme that I/we appoint a proxy to speak and vote at the general meetings (including adjournments) and on the terms set out below.

| | |
|--|--|
| Member name(s): | |
| Unit numbers: | |
| Proxy name <i>(insert one full name)</i> : | |

This appointment applies to: *(tick **one** of the following and complete as necessary)*

| | | |
|-------------------------------------|------------------------------------|---|
| <input checked="" type="checkbox"/> | The general meeting to be held on: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <small>D D / M M / Y Y Y Y</small> |
| <input type="checkbox"/> | All general meetings held before: | <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <small>D D / M M / Y Y Y Y</small> |

| | |
|--------------------------|---|
| <input type="checkbox"/> | All general meetings until and including the body corporate's next annual general meeting |
|--------------------------|---|

Special conditions or instructions to proxy: (if left blank, the appointment is unconditional)

Signature(s) of members giving mandate:

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|--|--|---|---|--|---|---|--|---|---|---|---|
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| | | / | | | / | | | | | | | | | | | | | | | | |
| D | D | | M | M | | Y | Y | Y | Y | | | | | | | | | | | | |

Signature of person accepting mandate:

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|--|--|---|---|--|---|---|--|---|---|---|---|
| | <table style="margin: auto;"><tr><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="font-size: 10px;">/</td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="font-size: 10px;">/</td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="border: 1px solid black; width: 20px; height: 20px;"></td><td style="border: 1px solid black; width: 20px; height: 20px;"></td></tr><tr><td style="text-align: center;">D</td><td style="text-align: center;">D</td><td></td><td style="text-align: center;">M</td><td style="text-align: center;">M</td><td></td><td style="text-align: center;">Y</td><td style="text-align: center;">Y</td><td style="text-align: center;">Y</td><td style="text-align: center;">Y</td></tr></table> | | | / | | | / | | | | | D | D | | M | M | | Y | Y | Y | Y |
| | | / | | | / | | | | | | | | | | | | | | | | |
| D | D | | M | M | | Y | Y | Y | Y | | | | | | | | | | | | |

ANNEXURE 4

Annexure 4 to the regulations under the Sectional Titles Schemes Management Act,
No 8 of 2011 STSM Ann. 4.1 (10/11)

Complaint Form

Use this form to notify the Body Corporate and persons against whom you are making the complaint, who must be a unit owner, occupier or the managing agent.

Details of person making this complaint:

| | |
|--|--|
| Full names: | |
| Unit number(s) (if applicable): | |
| Section Address: | |
| Name and number of Scheme: | |
| Province: | |
| Postcode: | |
| Postal address of Complainant (if different from above): | |
| | |

Which type are you? (tick **one** box):

Types: 1. Unit owner 2. Unit tenant 3. Other occupier 4. Managing agent

Details of person(s) you are making the complaint against:

| Person(s) name(s) | Address (include unit number, if applicable) | Type No. |
|-------------------|--|----------|
| | | |

Details of the relevant Rule, section of the Act or Regulation:

Identify which provision(s) is/are apparently being breached or not being complied with

| |
|--|
| |
|--|

Details of complaint/alleged breach:

Describe what the complaint/breach is about, including dates and times:

Self-help action taken:

What has been done to try to resolve this complaint? Please describe what you have done, who you have talked to and what they offered to do

Proposed solution or action:

What remedy are you requesting? How do you want the problem to be solved?

Declaration and Signature of complainant:

I declare that the above information is true and correct to the best of my knowledge. I agree that the information I have given in this form may be used or disclosed by the body corporate to process and resolve this complaint.

Signature:

| | | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|---|---|
| | | | / | | | / | | | | |
| | D | D | / | M | M | / | Y | Y | Y | Y |

The complainant must deliver a copy of this completed and signed form to the body corporate and must keep a copy and proof of delivery.

Delivery method:

| By post (name and postal address): | In person by: |
|---|----------------------|
| | |

| |
|---|
| Contact telephone number for complainant(s): |
| |

| |
|---|
| Contact email address for complainant (s): |
| |

Record of Body Corporate Decision

Record of Body Corporate Decision

Date of Notice: _____

Annexure 4 to the regulations under the Sectional Title Schemes Management Act, No. 8 of 2011 STSM Ann. 4.2 (10/11)

From: Name and number of scheme

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To: (person/s that made complaint and person/s who allegedly committed breach)

| Person/s name/s | Address |
|-----------------|---------|
| | |

Description of Complaint: (brief details of complaint/alleged breach)

| |
|-----------------|
| Person/s name/s |
|-----------------|

Outcome of Internal Dispute Resolution Meeting: (description)

| |
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| |
|--|

Decision of Body Corporate: (description and reasons for decision)

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This Notice is served by:

Signature of person representing body corporate

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Printed name

Position/Title

| | |
|--|--|
| | |
|--|--|

Address

| |
|--|
| |
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Contact telephone number

| |
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Email Address (if applicable)

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Important Notice

- If any party to this dispute is not satisfied with the decision that party can make an application to the Community Schemes Ombud Service for assistance.