

No. R. 438

13 May 2005

DEPARTMENT OF LAND AFFAIRS**SECTIONAL TITLES ACT, 1986:
AMENDMENT OF REGULATIONS**

I, Angela Thokozile Didiza, Minister for Agriculture and Land Affairs, acting in terms of section 55 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), after consultation with the sectional titles regulation board, hereby amend the Regulations promulgated by Government Notice No. R.664 of 8 April 1988, as set out in the Schedule hereto.


A.T. DIDIZA**MINISTER FOR AGRICULTURE AND LAND AFFAIRS****SCHEDULE****Definitions**

1. In this Schedule "the Regulations" means the regulations promulgated by Government Notice No. ~~R.664 of 8 April 1988~~ (as corrected by Government Notice No. R. 991 of 27 May 1988), and amended by Government Notice No. R. 1791 of 3 August 1990, Government Notice No. R. 2345 of 5 October 1990 (as corrected by Government Notice No. R. 2542 of 2 November 1990), Government Notice No. R. 2653 of 8 November 1991 (as corrected by Government Notice No. R. 2868 of 6 December 1991), Government Notice No. R. 1562 of 12 June 1992, Government Notice No. R. 60 of 15 January 1993, Government Notice No. R. 1659 of 30 September 1994, Government Notice No. R. 1422 of 31 October 1997, Government Notice No. R. 1357 of 19 November 1999 and Government Notice No. R. 830 of 25 August 2000.

Amendment of regulation 17

2. Regulation 17 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"Alienation and letting of common property"

Amendment of regulation 27

3. Regulation 27 of the Regulations is hereby amended by the addition of the following subregulation:

“(3) The application contemplated in subregulation (1)(a) must be accompanied by an amended schedule as contemplated in section 11(3)(b) of the Act, where the land to be incorporated into the communal scheme concerned is subject to conditions which are different from the conditions registered at the opening of the sectional title register.”.

Amendment of regulation 28

4. Regulation 28 of the Regulations is hereby amended by the addition of the following subregulations (4) and (5):

- “(4)(a) Whenever any real right to an exclusive use area vests in the body corporate as contemplated in section 27(1)(c) or section 27(4)(b) of the Act, the registrar shall upon lodgment of an application by the body corporate, nearly as practicable in the form AG in Annexure 1, issue a certificate of real right in favour of the body corporate in the form AH of Annexure 1.
- (b) If the real right to such exclusive use area is hypothecated, the registrar shall endorse the fact of the issuing of such certificate on the registry duplicate of the bond and, if the original bond is at any time lodged with the registrar's office for any purpose except cancellation, the registrar shall make a similar endorsement thereon: Provided that the issuing of such certificate shall not prejudice any claim to compensation which any person may have as a result of the vesting of such right.
- (c) The body corporate shall produce the title deed of the real right to such exclusive use area to the registrar, together with the certificate of real right, and the registrar shall thereupon endorse the fact of the issuing of such certificate on such title deed.
- (d) If the body corporate does not produce the title deed of the real right to such exclusive use area, it must submit to the registrar an affidavit stating the reasons why it has been unable to produce the title deed and the registrar shall if he or she is satisfied with the reasons, endorse the fact of the issuing of the certificate on the registry duplicate of such title deed, and if the original title deed is at any time lodged with his or her office for any purpose, the registrar shall make a similar endorsement thereon.
- (e) The registrar shall not issue the said certificate unless a certificate has been furnished by the body corporate to the effect that the provisions of section 27 of the Act in connection with the vesting of

such right have been complied with.

- (5)(a) A separate title deed as contemplated in section 27(7) of the Act may be obtained by the registered holder from the registrar upon written application accompanied by the title deed of the right to the exclusive use area concerned and such title deed must be issued, nearly as practicable, in the form AI in Annexure 1.
- (b) If the right to the exclusive use area concerned is subject to a registered mortgage bond, that bond shall be produced to the registrar by the holder thereof, upon the request by and at the expense of the applicant.
- (c) Before issuing such title deed the registrar shall cause to be made upon the title deed to the exclusive use area concerned and upon the mortgage bond an endorsement to the effect that a separate title deed as contemplated in section 27(7) of the Act, has been substituted for the one title deed in respect of the right to the exclusive use area concerned and the registrar shall further make the necessary entries in the registers of the issue of the separate title deed and shall, if the right to the exclusive use area is mortgaged, endorse that fact upon the title deed so issued.
- (d) Any separate title deed, when issued, shall in respect of the right to the exclusive use area described therein, take the place of the title deed or deeds by which such right was previously held and the issue of such title deed shall not in any manner affect any right or obligation in connection with such right to the exclusive use area concerned.”.

Amendment of Annexure 1

5. Annexure 1 to the Regulations is hereby amended-

- (a) by the substitution for form G of the following form:

Form G

Prepared by **me**

.....
Conveyancer

.....
(State surname and initials in block letters.)

— CERTIFICATE OF REAL RIGHT: EXCLUSIVE USE AREAS

[In terms of section 12 (1) **(9)** of the Sectional Titles Act, 1986]

***WHEREAS** (hereinafter called the developer) has applied for the registration of a sectional plan in terms of section 11 (1) of the Sectional Titles Act, **1986**,

***WHEREAS** (hereinafter called the developer) has applied for the registration of a sectional plan of extension in terms of section 11 (1) of the Sectional Titles Act, 1986,

***AND WHEREAS** the developer has in terms of section **5 (3)(f)** of the said Act delineated certain exclusive use areas on the sectional plan;

***AND WHEREAS** no reservation was made by the developer in terms of section **27 (1)** (a) of the said Act and the body corporate has not yet been established;

NOW, therefore, I, the Registrar of Deeds at.....do hereby certify that the developer is the registered holder of the right to the undermentioned exclusive use areas forming part of the common property and delineated as such on Sectional Plan No **SS**..... in the scheme known as ‡ situated at †

Signed at on

.....
Registrar of Deeds.

Seal of Office

* Delete whichever is not applicable.

† Disclose each type of exclusive use area separately.

‡ Disclose name of town/suburb and local authority.

(b) by the substitution for form H of the following form:

FORM H

Prepared by me

.....
Conveyancer

.....
(State surname and initials in block letters.)

DEED OF TRANSFER

Be it hereby made known:

That..... appeared before me at....., being duly authorized thereto by a power of attorney granted to him or her by.....dated the.....day of.....and signed at..... and the said appearer declared that-

(Here insert an appropriate recital of the nature and date of the transaction or the circumstances necessitating transfer as well as the compensation) and that he or she in his or her capacity as aforesaid, do, by these presents, cede and transfer, in full and free property, to and on behalf of.....

*1 A unit consisting of-

- (a) Section No.....as shown and more fully described on Sectional Plan No **SS**.....in the scheme known as..... in respect of the land and building or buildings situated at **±** of which section the floor area according to the said sectional plan is.....square metres in extent; and
- (b) an undivided share in the common property in the scheme apportioned to the said section in accordance with the participation quota as endorsed on the said sectional plan.

Held by virtue of **ll**.....

*2. Here insert the description of the land to be conveyed, the extent thereof, and comply with the provisions of the regulations promulgated under the Deeds Registries Act, 1937 (Act 47 of 1937), with reference to the extending clause and the conditions governing the unit.

*3. All the right, title and interest (here insert the share to be alienated if not the full interest) in the land and building or buildings in the scheme known as..... situated at **±** which interest consisting of **†** Section No in extentas shown and more fully

described on Sectional Plan No **SS**.....and *undivided share/undivided shares in the common property apportioned in accordance with the participation quota as endorsed on the said sectional plan.

Held by virtue of **of ll**

The said *unit/interest is subject to or shall benefit by-

- §(i) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions referred to in section 11 (3) (b) and the servitudes referred to in section 28 of the Sectional Titles Act, 1986 (Act 95 of 1986);

- and
- (ii) any alteration to the building or buildings or to a section or to the common property shown on the said sectional plan.
- (iii) (Insert the special conditions endorsed against the title deed contained therein.)

Wherefore all the rights, title and interest which the transferor heretofore had to the unit aforesaid **is** renounced, and in consequence it is also acknowledged that the transferor **is** entirely dispossessed of, and disentitled to, the same, and that, by virtue of these presents the aforesaid transferee now is entitled thereto, the State however, reserving its rights.

Signed, executed and sealed at.....on.. ..

.....
q.q. Signature of appearer

In ~~my~~ presence

.....
Registrar of Deeds

*Omit whichever is not applicable.

† State each unit in separate paragraph.

‡ Disclose name of town/suburb/local authority/description of farm.

§ Omit in the event of transfer of land.

|| State type of sectional title deed(s) and the number(s) thereof.

- (c) by the substitution for form O of the following form:

Form O

Prepared by me

.....
Conveyancer

.....
(State surname and initials in block letters.)

APPLICATION UNDER SECTION *22 (1), 23 (1), 24 (6), 25 (9), 26 (5) OR 27 (1) OF THE SECTIONAL TITLES ACT, 1986

I, the undersigned do hereby apply to the Registrar of Deeds at for:

1. The registration of the attached sectional plan of subdivision of a ~~*section/consolidation of sections/extension of sections/extension of scheme by addition of sections/extension of scheme~~ **by** the addition of land to the common property in terms of the provisions of section *22 (1)/23 (1)/24 (6)/25 (9)/26

(5)/27 (1) of the Sectional Titles Act, 1986, in respect of ‡ Section No formerly section No./sections No'sas shown and more fully described on sectional plan No **SS**.....in the scheme known as in respect of the land and building or buildings situate at † and held under §.....

2. The issue of certificates of registered sectional title in terms of the provisions of section *22 (5)/23 (5)/25 (11) of the aforesaid Act in respect of the sections shown on the said sectional plan of *subdivision/consolidation/extension.
3. The issue of a certificate of real right in respect of a right to exclusive use as contemplated by section 27(1) (if applicable)

Signed at, on.....

.....
Signature of Owner

*Delete whichever is not applicable.

†Disclose name of town/suburb and local authority

‡To be adapted for extension of sections and/or common property.

§State type of sectional title deed(s) and the number(s) thereof.

(d) by the addition of the following form:

Form AG

Prepared by me

.....
Conveyancer

.....
(State surname and initials in block letters.)

APPLICATION UNDER *SECTION 27(1)(d)/SECTION 24(4)(c) OF THE SECTIONAL TITLES ACT, 1986

We, and the undersigned trustees of the Body Corporate of the (name) Scheme, No

Hereby apply for the issuing of a certificate of real rights of exclusive use areas in respect of:

An exclusive use area described as No , measuring , being as such part of the common property comprising the land and the scheme known as in respect of the land and building or buildings situate at † as shown and more

fully described on Sectional plan No **SS** held under *Certificate of Real

Right/Notarial Deed ~~of~~ Cession No **SK**.....

Which right vests in the said body corporate in terms of section *27(1)(d)/27(4)(c) of the Sectional Titles Act, 1986.

Address

.....

.....

.....
Trustee

.....
Trustee

.....
Date

¹Delete that which is not applicable

[†]Disclose name of township/suburb and local authority

(e) by the addition of the following form:

Form AH

Prepared by me

.....
Conveyancer

.....
(State surname and initials in block letters.)

CERTIFICATE OF REAL RIGHT: EXCLUSIVE USE AREA

[In terms of section *27(1)(d)/27(4)(c) of the Sectional Titles Act, 1986]

WHEREAS the undermentioned exclusive use area vests in the **Body Corporate of** (name) No....., in terms of section *27(1)(d)/27(4)(c) of the Sectional Titles Act, 1986;

AND WHEREAS the said body corporate has applied for the issuing of a certificate of real right of exclusive use area;

NOW THEREFORE, in terms of the provisions of the Act, **I**, the Registrar of Deeds at hereby certify that the Body Corporate ~~of~~ (name) No.....

is the registered holder ~~of~~:

~~†~~An exclusive use area described as No measuring being as such part of the common property comprising the land and the scheme known as in respect of the land and building or buildings situate at [†]..... as shown and more fully described on Sectional Plan No **SS** held under *Certificate of Real

Right/Notarial Deed of Cession No **SK**.....

Signed at on

Seal of Office

.....
Registrar of Deeds

'Delete whichever is not applicable

†Disclose name of township/suburb and local authority

‡Disclose each type of exclusive use area separately

(9) by the addition of the following form:

Form AI

Prepared by me

.....
Conveyancer

.....
(State surname and initials in block letters.)

CERTIFICATE UNDER SECTION 27(7) OF THE SECTIONAL TITLES ACT, 1986

WHEREAS has applied for the issuing of a separate title deed as contemplated in section 27(7) of the Sectional Titles Act, **1986**, in respect of **the** undermentioned exclusive use areas, being exclusive use areas registered in his/her name held by virtue of *Certificate of Real Rights : Exclusive Use ~~Areas~~/Notarial Deed of Cession ~~of~~ Exclusive Use Areas (state No of title deed) dated ,

NOW THEREFORE, in terms of the provisions of the said Act, I, the Registrar of Deeds, at hereby certify that the said heirs, executors, administrators, or successors in title, or assigns ~~is/are~~ the registered holder/s of certain ~~‡~~... (describe the right/s to the exclusive use ~~area~~/s) and that by virtue of these presents (he, she or it) is now and henceforth shall be entitled thereto conformably to local custom, the State, however, reserving its rights.

In witness whereof I, the said Registrar, have signed this Deed, and have caused the seal of office to be affixed thereto.

Signed at on

Seal of Office

.....
Registrar of Deeds

*Delete that which is not applicable

‡Disclose each type of exclusive use area separately

Amendment of Annexure 8

6. Annexure 8 of the Regulations ~~is~~ hereby amended by –

(a) the substitution for paragraph (a) of rule 29(1) of the following paragraph:

“(a) At the first meeting of the trustees or soon thereafter as is possible, and annually thereafter, the trustees shall take steps to insure the buildings, and all improvements ~~to~~ the common property, to the full replacement value thereof, subject to negotiation of such excess, premiums and insurance rates as in the opinion of the trustees are most beneficial to the owners, against-“;

(b) the substitution for sub-rule (1) of rule 32 of the following sub-rule:

“(1) The trustees shall keep a complete record of all rules in force from time to time and shall ensure that any amendment, substitution, addition or repeal of such rules (as contemplated in section 35(5) of the Act) is submitted forthwith to the Registrar of Deeds for filing as contemplated in section 35(5)(c) of the Act.”;

(c) the substitution for paragraph (b) of rule 33(2) of ~~the~~ the following paragraph:

“(b) The trustees shall at the written request of any owner convene a special general meeting in order to discuss and ~~to~~ deliberate upon the proposals contained in the notice referred to in paragraph (a), at which meeting the owners may approve, with or without amendments, such proposals by way of special resolution.”;

(d) (i) the substitution for paragraphs (g) and (h) of rule 56 of the following paragraphs :

“(g) the giving of directions or the imposing of restrictions referred to in section 39(1) of the Act;

(h) the determination of the *domicilium citandi et executandi* of the body corporate; and”;

(ii) the addition of the following paragraph :

“(i) the confirmation by the auditor or accounting officer that any amendment, substitution, addition or repeal of the rules (as contemplated in section 35(5) of the Act) have been submitted to the Registrar of Deeds for filing as contemplated in section 35(5)(c) of the Act.”;

(e) the substitution for sub-rule (2) of rule 59 of the following sub-rule:

“(2) If there is no such chairman or if, at any meeting, the chairman of the trustees **is** not present within fifteen minutes after the time appointed for the holding of the meeting, or if he is unwilling or unable to act as chairman, the members present shall elect a chairman for such meeting.”;

(f) the substitution for rule 62 of the following rule:

“(62) On a show of hands the owner or owners of a section, or if the owner is a juristic person, its proxy, shall have one vote for each section owned: Provided that the chairman shall be entitled, in his discretion, to change the manner of voting to one **by** poll and not by show **of** hands.”;

(g) the substitution for paragraph (vi) of rule 68(1) of the following paragraph:

“(vi) shall not construct or place any structure or building improvement on his or her exclusive use area, without the prior written consent of the trustees, which shall not be unreasonably withheld and that the provisions of section 24 and section 25 or other relevant provisions of the Act or the rules, will not be contravened.”;

(h) the substitution for sub-rule (2) of rule 71 of the following sub-rule :

“(2) **If** such a dispute or complaint arises, the aggrieved party shall notify the other affected party or parties in writing and copies of such notification shall be served on the trustees and the managing agents, if any, and **should** the dispute or complaint not be resolved within **74** days of such notice, either of the parties **may** demand that the dispute or complaint be referred to arbitration : Provided that, if an owner declares a dispute with the body corporate, it shall be sufficient notice if notification is served on the trustees and managing agents, if any, and such owner will not be required to serve notice on each of the other owners.”;

(i) the addition of the following sub-rule to rule 71:

“(8) Notwithstanding that the Arbitration Act, No. 42 of 1965, makes no provision for joinder of parties to an arbitration without their consent thereto, should a dispute arise between the body corporate and

more than one owner or between a number of owners arising out of the same or substantially the same cause of action, ~~or where~~ substantially the same order would be sought against all the parties against whom the dispute has been declared, such parties shall be automatically joined in the arbitration by notice thereof in the original notice of dispute given in terms of sub-rule (2).".

7. These regulations shall come into effect on the date of publication thereof in the **Gazette**.

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