

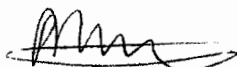
**DEPARTMENT OF LAND AFFAIRS
DEPARTEMENT VAN GRONDSAKE**

No. R. 1264

28 November 2008

**SECTIONAL TITLES ACT, 1986:
AMENDMENT OF REGULATIONS**

I, Lulama Xingwana, Minister for Agriculture and Land Affairs, under 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.



**L XINGWANA
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), as 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, Government Notice No. R.830 of 25 August 2000, Government Notice No. R.438 of 13 May 2005 and Government Notice No. R.1109 of 18 November 2005.

Substitution of regulation 16C

2. The Regulations are hereby amended by the substitution for regulation 16C of the following regulation:

"16C. The person who signs a preparation certificate contemplated in regulations 16A(1) or 16B(1) accepts responsibility for the correctness of the undermentioned facts stated in the deeds or documents concerned or which are relevant in connection with the registration or filing thereof, namely –

- (a) that all copies of the deeds or documents intended for execution or registration are identical at the date of lodgment;
- (b) that, in the case of a deed of transfer, certificate of title or certificate of registration, all the applicable conditions of title have been correctly brought forward in that deed of transfer, certificate of title or certificate of registration;
- (c) that, in the case of a document referred to in regulation 16B(1) signed by a person in his or her capacity as executor, trustee, tutor, curator, liquidator, judicial manager or a person in a representative capacity, from perusal of documents evidencing such appointment exhibited to him or her, such person has in fact been appointed in that capacity and acts in accordance with the powers granted to him or her and that any security required has been furnished to the Master of the High Court;
- (d) that, to the best of his or her knowledge and belief and after due enquiry, including but not limited to the examination of supporting documents, has been made –
 - (i) the names, identity number or date of birth and marital status of any natural person being a party to a deed or document, are correctly disclosed in such deed or document and in the case of any other person, its name and registered number, if any, are correctly disclosed in that deed or document;
 - (ii) in the case of a document referred to in regulation 16B(1) –
 - (aa) that unless appointed by special or general power of attorney, the necessary authority has been obtained for the signing of such document in a representative capacity on behalf of a company, close corporation,

- church, association, society, trust, other body of persons or an institution, whether created by statute or otherwise;
- (bb) that the transaction as disclosed therein, is authorized by and in accordance with the constitution, regulations, founding statement or trust instrument of a trust, as the case may be, of any church, association, close corporation, society, trust, other body of persons or any other institution, created by statute or otherwise, other than a company, except a share block company as defined in the Share Blocks Control Act, 1980 (Act 59 of 1980), being a party to such document;
- (cc) the person, entity, body of persons, whether created by statute or otherwise, is entitled to and contractually capable of concluding the transaction disclosed in the deed or document lodged for registration; and
- (e) that, in the case where a person signs the preparation certificate on a deed of transfer, certificate of title, certificate of registration, other deed conveying ownership in land or a sectional mortgage bond, he or she accepts responsibility that the particulars in the deed mentioned in paragraph (d)(i), have been brought forward correctly from the special power of attorney or application relating thereto.”.

Amendment of regulation 30

3. The Regulations are hereby amended by the substitution in regulation 30 for subregulation (1) of the following subregulation:

“(1) Subject to subregulations (2) and (3), the management rules as contemplated in section 35(2)(a) of the Act, shall be those rules as set out in Annexure 8 of the Regulations, for which, except in the case of rules 1 to 6 inclusive, rules 10 to 13, inclusive, rule 15(3) and (4), rules 16 to 26, inclusive, rules 28 to 30 and 32 to 45, inclusive, rule 46(1), rules 47 to 56, inclusive, rule 57(1) and rules 59 to 70, inclusive, other rules may be substituted, added to, amended or withdrawn by the developer when submitting an application for the opening of a sectional title register.”.

Deletion of regulation 44

4. The Regulations are hereby amended by the deletion of regulation 44.

Amendment of Annexure 1

5. Annexure 1 to the Regulations is hereby amended by the substitution for form V of the following form:

Form V

Registrar's number of Sectional Plan SS

Registrar of Deeds

NOTIFICATION UNDER SECTION 35(5) OF THE SECTIONAL TITLES ACT, 1986

We, and (only two trustees required to sign), the undersigned trustees of the body corporate of the scheme known as, No. situate at **,

hereby give notice that on the body corporate made the following rules (set out in the Schedule) which have been initialled by the trustees for identification for the control and management of the buildings:

*(a) Management Rules († in substitution of, addition to, withdrawal of or in amendment of the existing rules).

*(b) Conduct Rules († in substitution of, addition to, withdrawal of or in amendment of the existing rules).

The rules referred to in paragraph (a) have been adopted by unanimous resolution of the members of the body corporate.

The rules referred to in paragraph (b) have been adopted by special resolution of the body corporate.

Address:.....
.....
.....

.....
Trustee

.....
Trustee

.....
Date

Filed at the Office of the Registrar of Deeds at.....
on.....

Signed at on

Registrar of deeds:.....Date:.....
(Seal of Office)

* Particulars not applicable in a particular case must be omitted.

** State name of township/suburb and local authority.

† Particulars not applicable in a particular case must be omitted.

Amendment of Annexure 8

6. Annexure 8 to the Regulations is hereby amended –

- (a) by the insertion in rule 29 after subrule (3) of the following subrule:

“(4) The owner of a section is responsible for any excess payment in respect of his or her section payable in terms of a contract of insurance entered into by the body corporate: provided that owners may by special resolution determine that the body corporate is responsible for excess payments in respect of specified damage.”;

- (b) by the insertion in rule 31 after subrule (4) of the following subrule:

“(4A) After the expiry of a financial year and until they become liable for contributions in respect of the ensuing financial year, owners are liable for contributions in the same amounts and payable in the same instalments as were due and payable by them during the expired financial year: provided that the trustees may, if they consider it necessary and by written notice to the owners, increase the contributions due by the owners by a maximum of 10 per cent to take account of the anticipated increased liabilities of the body corporate.”;

- (c) by the substitution in rule 33 for subrule (1) of the following subrule:

“(1) The trustees may, if the owners by unanimous resolution so decide, effect or remove improvements of a luxurious nature on the common property.”;

- (d) by the substitution in rule 33 for paragraph (a) of subrule (2) of the following paragraph:

“(a) Should the trustees wish to effect or remove any improvements to the common property, other than luxurious improvements referred to

in subrule (1), they shall first give written notice of such intention to all the owners and such notice shall -

(i) indicate the intention of the trustees to proceed with the improvement or removal thereof upon the expiry of a period of not less than thirty days reckoned from the date of posting such notice; and

(ii) provide details of the improvement or removal thereof as to -

(aa) the costs thereof;

(bb) the manner in which it is to be financed and the effect upon levies paid by owners; and

(cc) the need, desirability and effect thereof.”;

(e) by the substitution in rule 37 for subrule (1) of the following subrule:

“(1) The trustees shall cause to be prepared, and shall lay before every annual general meeting, for consideration in terms of rule 56(a), a financial statement in conformity with generally accepted accounting practice, which statement shall fairly present the state of affairs of the body corporate and its finances and transactions as at the end of the financial year concerned.”;

(f) by the substitution for rule 38 of the following rule:

“38. The trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the chairman reviewing the affairs of the body corporate during the past year, for consideration in terms of rule 56(a).”; and

(g) by the substitution in rule 46 for subrule (1) of the following subrule:

“(1) (a) Notwithstanding anything to the contrary contained in rule 28, and subject to the provisions of section 39(1) of the Act, the trustees may from time to time, and shall if required by a registered mortgagee of 25 per cent of the units or by the members of the body corporate in a general meeting, appoint in terms of a written contract a managing agent to control, manage and administer the common property and the obligations to any public or local authority by the body corporate on behalf of the unit owners, and to exercise such powers and duties as may be entrusted to the managing agent, including the power to collect levies and to appoint a supervisor or caretaker.

(b) A managing agent is appointed for an initial period of one year and thereafter such appointment shall automatically be renewed from year to year unless the body corporate notifies the managing agent to the contrary: provided that notice of termination of the contract may be given by the trustees in accordance

with a resolution taken at a trustee meeting or an ordinary resolution taken at a general meeting.”.

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