

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

---

---

# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

*As 'n Nuusblad by die Poskantoor Geregistreer.*

*Registered at the Post Office as a Newspaper*

**R0,80** Prys • Price  
**R0,08** Plus 10% BTW • VAT  
**R0,88** Verkoopprys • Selling price  
Buitelands **R1,10** Other countries  
Post free • Posvry

Vol. 321

KAAPSTAD, 11 MAART 1992

No. 13821

CAPE TOWN, 11 MARCH 1992

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 773.

11 Maart 1992

No. 773.

11 March 1992

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

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

No. 7 van 1992: Wysigingswet op Deeltitels, 1992.

No. 7 of 1992: Sectional Titles Amendment Act, 1992.

**GENERAL EXPLANATORY NOTE:**

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

# ACT

To amend the Sectional Titles Act, 1986, so as to substitute certain definitions and define certain expressions more closely; to further regulate certain matters regarding development schemes, sectional plans and sectional title registers; to rectify an expression; to further regulate proof of payment of rates and moneys to the local authority; to further regulate a notice to the registrar given at the substitution, addition to, amendment or repeal of management and conduct rules; and to provide for the payment by the developer to the body corporate of any residue of revenue; and to provide for incidental matters.

*(English text signed by the State President.)  
(Assented to 3 March 1992.)*

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

**Amendment of section 1 of Act 95 of 1986, as amended by section 1 of Act 63 of 1991**

- 5    1. Section 1 of the Sectional Titles Act, 1986 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the deletion in subsection (1) of the definition of “Chief Director”;
- (b) by the insertion in the said subsection (1) before the definition of  
10    “common property” of the following definition:
- “ ‘Chief Surveyor-General’ means the Chief Surveyor-General  
    appointed in terms of section 1 of the Land Survey Act, 1927 (Act  
    No. 9 of 1927);”;
- (c) by the substitution in the said subsection (1) for the definition of  
15    “owner” of the following definition:
- “ ‘owner’, in relation to a unit, **[or a section, or an undivided share**  
    **in the common property forming part of a unit]** means—
- (a) the person (including the State) in whose name the unit is  
    registered in a deeds registry **[or in whom the ownership of the**  
    **unit is vested by virtue of any law; or];**
- 20    (b) the person (including the State) by whom the unit is held  
    under a lease for a period of ninety-nine years or longer or for  
    the life of the **[building or buildings]** scheme concerned and  
    registered in a deeds registry;

## SECTIONAL TITLES AMENDMENT ACT, 1992

Act No. 7, 1992

- 5 (c) (i) the husband in the case of a unit which is registered under section 17(1) of the Deeds Registries Act in the name of both spouses in a marriage in community of property to which the provisions of Chapter III of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), are not applicable;
- 10 (ii) either one of the spouses acting with the written consent, attested by two competent witnesses, of the other spouse in the case of a unit which is registered under section 17(1) of the Deeds Registries Act in the name of both spouses in a marriage in community of property to which the provisions of Chapter III of the Matrimonial Property Act, 1984, are applicable; or
- 15 (iii) either one of the spouses acting with the written consent, attested by two competent witnesses, of the other spouse in the case of a unit which is registered in the name of only one spouse and which forms part of the joint estate of both spouses in a marriage in community of property to which the provisions of Chapter III of the Matrimonial Property Act, 1984, are applicable; or
- 20 (d) the trustee in an insolvent estate, a liquidator or trustee elected or appointed under the Agricultural Credit Act, 1966 (Act No. 28 of 1966), the liquidator of a company or close corporation which is an owner and the representative recognized by law of any owner who has died or who is a minor or of unsound mind or is otherwise under disability, provided such trustee, liquidator or legal representative is acting within the authority conferred upon him by law;
- 25 and 'owned' and 'ownership' have a corresponding meaning;";
- 30 and
- (d) by the substitution in the said subsection (1) for paragraph (c) of the definition of "sectional mortgage bond" of the following paragraph:
- 35 "(c) any other registered real right in or over any such unit or undivided share in a unit or land or the **[right] rights** referred to in **[section] sections 25 and 27 [to extend a scheme]**;"

**Amendment of section 10 of Act 95 of 1986**

2. Section 10 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

- 40 "(4) If any unit referred to in subsection (1) is controlled premises as contemplated therein and the lessee is 65 years old or older and his monthly income does not exceed the maximum amount of income from time to time mentioned in any proclamation issued under section 52(1) of the Rent Control Act, 1976 (Act No. 80 of 1976), for lessees of premises in respect
- 45 of which rent control is in terms of that section established by such proclamation, such unit may as long as such lessee continues to occupy the unit and his income does not exceed such maximum amount, only be offered for sale or sold **[by a developer]** to that lessee or in the case of any other person only be offered for sale or sold to that person subject to the
- 50 provisions of subsection (1) and the right of that lessee to continue to occupy that unit for as long as his income does not exceed such maximum amount."

**Amendment of section 11 of Act 95 of 1986, as amended by section 5 of Act 63 of 1991**

- 55 3. Section 11 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (3) of the following paragraph:
- 5 “(b) a schedule certified by a conveyancer setting out the servitudes and conditions of title burdening or benefiting the land and the other registrable conditions imposed by the local authority or the Administrator when approving the scheme, or by the developer in terms of subsection (2), as well as such other particulars as may be prescribed;”;
- 10 and
- (b) by the deletion of the word “and” at the end of paragraph (f) of subsection (3) and the insertion of the following paragraph after the said paragraph (f):
- 15 “(fA) in the case of an application in respect of a building referred to in section 4(5A), a certificate of the local authority concerned that the building and the land comply with all the applicable requirements of section 4(5); and”.

**Amendment of section 14 of Act 95 of 1986, as amended by section 8 of Act 63 of 1991**

4. Section 14 of the principal Act is hereby amended—
- 20 (a) by the substitution for subsection (6) of the following subsection:
- “(6) The registrar may on application by a developer, which application shall be accompanied by a certificate by a conveyancer in which he certifies—
- 25 (a) that all the **[sections]** units of a scheme are registered in the developer’s name;
- (b) that, if applicable, the developer is the holder of a right referred to in section 25 or 27; and
- 30 (c) that no [section] unit or no right referred to in section 25 or 27 is encumbered by a sectional mortgage bond or a lease or in any other way,
- close the sectional title register, and notify the Surveyor-General and the local authority that the sectional title register has been closed, whereupon the Surveyor-General shall cancel the original sectional plan and the deeds registry copy thereof.”;
- 35 (b) by the substitution for subsection (7) of the following subsection:
- “(7) Whenever a sectional title register has been closed under subsection (6), the registrar shall make all such alterations, amendments, endorsements and entries on the developer’s sectional title deeds and in the registers and records kept by him, as may be necessary to record such cancellation and the reversion of the land in question to the applicable land register, and shall in the manner prescribed cause the developer’s title deed referred to in section 11(3)(c) to be revived, or shall issue to the developer a certificate of registered title in the form prescribed under the Deeds Registries Act for the said land, subject or entitled to such servitudes, other real rights and conditions (if any) as are **[certified by a conveyancer to be]** still applicable to or in respect of such land.”.
- 40
- 45

**Amendment of section 24 of Act 95 of 1986, as amended by section 14 of Act 63 of 1991**

5. Section 24 of the principal Act is hereby amended by the substitution in the Afrikaans text for paragraph (b) of subsection (6) of the following paragraph:
- 55 “(b) ’n bylae gesertifiseer deur ’n transportbesorger van enige registreerbare voorwaardes opgelê deur die plaaslike bestuur of Administrateur by goedkeuring van die **[skema]** uitbreiding;”.

**Amendment of section 25 of Act 95 of 1986, as amended by section 15 of Act 63 of 1991**

6. Section 25 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

- 5 “(7) The provisions of section 4(4), (5), (5A), (6), (8), (9), (10) and (11) shall apply *mutatis mutandis* to an application to a local authority for its approval of an extension of a scheme in terms of this section.”

**Amendment of section 34 of Act 95 of 1986, as amended by section 18 of Act 63 of 1991**

10 7. Section 34 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The registrar shall not register the transfer of a transaction referred to in subsection (3) unless—

- 15 (a) there is produced to the registrar a clearance certificate of the local authority that—
- (i) all rates and moneys due to that local authority in respect of the land concerned have been paid up to and including the day of transfer; or
- 20 (ii) in those cases where a law provides for the separate levying of rates in respect of a unit, all such rates due to that local authority in respect of the unit concerned have been paid up to and including the day of transfer; and
- 25 (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), 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.”

30 **Amendment of section 35 of Act 95 of 1986, as amended by section 19 of Act 63 of 1991**

8. Section 35 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- 35 “(1) A **[building and the land on which it is situated]** scheme shall as from the date of the establishment of the body corporate be controlled and managed, subject to the provisions of this Act, by means of rules.”; and
- (b) by the substitution for subsection (5) of the following subsection:
- 40 “(5) If **[management rules other than management]** the rules [prescribed by regulation as] contemplated in subsection (2)**[(a)]** are substituted, added to, amended or repealed, the body corporate shall lodge with the registrar a notification in the prescribed form of such substitution, addition to, **[or]** amendment or repeal of the rules concerned, and no such substitution, addition, amendment or repeal shall be of force and effect until noted by the
- 45 registrar against the certificate referred to in section 11(3)(e).”

**Amendment of section 36 of Act 95 of 1986**

9. Section 36 of the principal Act is hereby amended—

- 50 (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

“(1) With effect from the date on which any person other than the developer becomes an owner of a unit in a **[building]** scheme, there shall be deemed to be established for that **[building]** scheme a body corporate of which the developer and such person are

55 members, and every person who thereafter becomes an owner of

a unit in that scheme shall be a member of that body corporate.

5 (2) The developer shall cease to be a member of the body corporate when he ceases to have a share in the common property as contemplated in section 34(2), and any other member of the body corporate shall cease to be a member thereof when he ceases to be the owner of a unit in the **[building]** scheme in question: Provided that if a lease of a unit referred to in paragraph (b) of the definition of 'owner' in section 1 expires, the developer or the person who granted the lease shall again become a member of the body corporate.

10 (3) The body corporate shall be designated as 'the Body Corporate of the .....(name)

15 **[Building]** Scheme, No. ...., such name and number to be inserted being the name and number referred to in sections 5(3)(b) and 12(1)(a), respectively.”;

(b) by the deletion of the word “and” at the end of paragraph (c) of subsection (6), the insertion of the word “and” at the end of paragraph (d) of subsection (6), and the addition after paragraph (d) of subsection (6) of the following paragraph:

20 “(e) any claim against the developer in respect of the scheme if so determined by special resolution.”;

(c) by the insertion after paragraph (a) of subsection (7) of the following paragraph:

25 “(aA) The developer shall pay over to the body corporate any residue, as revealed by the proof referred to in paragraph (a)(iii).”; and

(d) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

30 “(b) A developer who fails to comply with any provision of paragraph (a) or (aA), shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000.”.

**Amendment of section 55 of Act 95 of 1986, as amended by section 23 of Act 63 of 1991**

35 **10.** Section 55 of the principal Act is hereby amended by the substitution for paragraph (e) of the following paragraph:

40 “(e) the size of a draft sectional plan, sectional plan or other plan relating thereto, and the scale according to which and the manner in which such draft sectional plan, sectional plan or other plan shall be prepared; the information to be recorded thereon; **[and]** the number of draft sectional plans, sectional plans or other plans to be supplied; and the circumstances in which the Surveyor-General may authorize a departure from a regulation made in terms of this paragraph if it is found that compliance with such regulation is impossible or unpractical;”.

**Substitution of certain expressions in Act 95 of 1986**

**11.** The principal Act is hereby amended by the substitution for the expression “Chief Director”, wherever it occurs, of the expression “Chief Surveyor-General”.

50 **Short title and commencement**

**12.** This Act shall be called the Sectional Titles Amendment Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.