

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.



STAATSKOERANT

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 604.

30 Maart 1988

No. 604.

30 March 1988

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

No. 26 van 1988: Wysigingswet op die Beheer van Aandeleblokke, 1988.

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

No. 26 of 1988: Share Blocks Control Amendment Act, 1988.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Share Blocks Control Act, 1980, so as to provide that the consent of the Minister of Agriculture shall be obtained for the operation of share block schemes on agricultural land; to regulate the duties of a share block developer in connection with the opening of a sectional title register; to further regulate the sale of shares conferring a right to or an interest in the use of immovable property occupied by certain lessees; and to further regulate the liability for damages in case of a failure to insure the immovable property of a share block company; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 21 March 1988.)

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

Substitution of section 5 of Act 59 of 1980

1. The following section is hereby substituted for section 5 of the Share Blocks Control Act, 1980 (hereinafter referred to as the principal Act):

“Restrictions on operation of share block scheme

5. (1) No share block scheme shall be operated in respect of—

(a) agricultural land as defined in section 1 of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), unless consent for the sale or the granting of a right to a portion of such agricultural land has previously been obtained in writing from the Minister of Agriculture by either the owner or the prospective buyer of such agricultural land; and

(b) other immovable property upon which, after the commencement of this Act, a building is, according to any law, erected in conflict with an approved or a proposed town planning scheme.

(1A) For the purposes of paragraph (a) of subsection (1) the provisions of section 4 (1) (a) (ii) and (b), (2), (3) and (4) of the Act mentioned in that paragraph shall apply *mutatis mutandis*.

(2) The provisions of paragraph (b) of subsection (1) shall not apply in respect of a building in respect of which, prior to the date upon which the share block scheme is put into operation, there has been lodged with the Registrar the prescribed form on which an architect as defined in section 1 of the Architects' Act, 1970 (Act No. 35 of 1970), or a person registered as a land surveyor under section 10 of the Land Surveyors' Registration Act, 1950 (Act No. 14 of 1950), has certified that building plans in respect thereof have been approved under the laws relating to the erection of buildings upon the immovable property in question, and that the building has been erected in accordance with those plans.”

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Insertion of section 8A in Act 59 of 1980

2. The following section is hereby inserted in the principal Act after section 8:

“Duties of share block developer in connection with opening of sectional title register

5 **8A. (1)** Whenever shares in a share block company are directly or indirectly offered for sale by a share block developer, the offer shall state in writing whether or not the share block company intends to effect the opening of a sectional title register in terms of section 5 of the Sectional Titles Act, 1971 (Act No. 66 of 1971), in relation to the immovable
10 property in respect of which the share block scheme is or is to be operated.

(2) If an undertaking has been given to effect the opening of a sectional title register as contemplated in subsection (1) and a contract for the acquisition of a share is entered into, the share block developer shall, within 14 days of the signing of the contract, furnish the purchaser with an irrevocable and unconditional guarantee by a bank registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965), a mutual building society registered otherwise than provisionally under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), a building society registered otherwise than provisionally under the Building Societies Act, 1986 (Act No. 82 of 1986), or a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), in virtue whereof the said bank, mutual building society, building society or insurer undertakes to pay the total expenditure in order to effect the opening of the said sectional title register if the opening of the said register is not effected within a period specified in the said guarantee.

(3) Any purchaser or seller who has performed partially or fully under a contract for the acquisition of a share shall, if the provisions of subsection (2) have not been complied with in his case, be entitled to reclaim from the other party what he has performed under the contract, and—

- (a) the purchaser may in addition claim from the seller—
- (i) interest at 12 per cent per annum or at the rate prescribed from time to time by the Minister by regulation for the purposes of this section, on any payment made under the contract, from the date of payment to the date of recovery thereof; and
 - (ii) reasonable compensation for any expenses incurred by him with or without the authority of the share block company, for the preservation of the immovable property in respect of which the share block scheme is operated, or in respect of any improvements which enhance the market value of that immovable property and which were effected by him with the express or implied consent of that company; and
- (b) the seller may in addition claim from the purchaser—
- (i) reasonable compensation for the use that the purchaser may have had of the immovable property in respect of which the share block scheme is operated; and
 - (ii) compensation for any damage caused in respect of such immovable property by the purchaser or any person for whose acts or omissions the purchaser is delictually liable.”.

Amendment of section 11B of Act 59 of 1980, as inserted by section 1 of Act 78 of 1985

3. Section 11B of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

- 55 “(a) If any part referred to in paragraph (a) of subsection (1) of a building is controlled premises as contemplated in that subsection and the lessee thereof is 65 years old or older and his monthly income does not exceed the

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5 maximum amount of income from time to time mentioned in any procla-
mation issued under section 52 (1) of the Rent Control Act, 1976 (Act No.
80 of 1976), for lessees of premises in respect of which rent control is in
terms of that section established by such proclamation, any share confer-
ring a right to or an interest in the use of that part and which is to be offered
for sale or sold as contemplated in paragraph (b) of subsection (1) shall, as
long as such lessee continues to occupy that part and his income does not
exceed such maximum amount, be so offered for sale or sold to that lessee
10 [only] or to any other person subject to the provisions of subsection (1) and
subject to the right of that lessee, or his spouse referred to in paragraph (b),
to continue to occupy that part of the building for as long as his or her
income does not exceed such maximum amount."

Amendment of section 19 of Act 59 of 1980

4. Section 19 of the principal Act is hereby amended by the substitution for
15 subsection (2) of the following subsection:

“(2) If the company or any member thereof suffers any damage as a result of
a failure to comply with the provisions of subsection (1), the persons who at the
time of the failure were [share block developers or] directors [or officers] of the
company, shall be jointly and severally liable to compensate the company or
20 member, as the case may be, for the damage it or he suffered.”.

Short title and commencement

5. This Act shall be called the Share Blocks Control Amendment Act, 1988, and
shall come into operation on 1 October 1988.