



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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# STAATSKOERANT

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1135.

22 May 1991

No. 1135.

22 Mei 1991

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

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

NU. 63 of 1991: Sectional Titles Amendment Act, 1991

No. 63 van 1991: Wysigingswet op Deeltitels, 1991

**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.

*(English text signed by the State President.)*  
*(Assented to 15 May 1991.)*

**ACT**

To amend the Sectional Titles Act, 1986, so as to substitute certain definitions and to define certain expressions more closely; to further regulate certain matters regarding development schemes, sectional plans and sectional title registers; to provide for the transfer of a unit or land by means of a deed of transfer; to replace the certificate of registered sectional title by a sectional title deed; to regulate that a copy of the sectional plans be furnished also to the local authority concerned; to further regulate the extension of schemes; to provide that any right to an exclusive use area shall be ceded after the transfer of the last section in a scheme; to further regulate proof of payment of rates and moneys to the local authority; to further regulate management and conduct rules; to further regulate the disposal of land on the destruction of buildings; to further regulate the powers of the Surveyor-General regarding sectional plans; and to extend the period for the lodging of certain rules; and to provide for incidental matters.

**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**

1. Section 1 of the Sectional Titles Act, 1986 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “Administrator” of the following definition:
- “ ‘Administrator’ means—
- (a) in relation to a local authority referred to in paragraph (a) or (b) of the definition of ‘local authority’, an Administrator of a province acting on the advice and with the [consent] concurrence of the executive committee of which he is a member;
- (b) in relation to a local authority referred to in paragraph (c) of the definition of ‘local authority’, the Minister of Development Aid;”;
- (b) by the substitution in the said subsection (1) for the words preceding paragraph (a) of the definition of “developer” of the following words:
- “ ‘developer’ means a person who is the registered owner of land, situated within the area of jurisdiction of a local authority, on which is situated or to be erected a building or buildings which he has divided or proposes to divide into two or more sections in terms of a scheme, **[or his successor in title as developer]** or the holder of the right referred to in section 25 to extend a scheme, or his successor in title, and includes—”;
- (c) by the substitution in the said subsection (1) for the definition of “local authority” of the following definition:

“ ‘local authority’ means—

(a) any institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961);

(b) any local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

(c) any local government body established or deemed to be established under section 30 of the Black Administration Act, 1927 (Act No. 38 of 1927),

exercising jurisdiction over an area in which land is situated, including any other institution or body performing work of any such institution or body and so exercising jurisdiction;”;

(d) by the substitution in the said subsection (1) for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister of Public Works and Land Affairs;”;

(e) by the substitution in the said subsection (1) for paragraph (c) of the definition of “sectional mortgage bond” of the following definition:

“(c) any other registered real right in or over any such unit or undivided share in a unit or land or the right referred to in section 25 to extend a scheme;”;

(f) by the substitution in the said subsection (1) for the definition of “sectional title deed” of the following definition:

“ ‘sectional title deed’ means a certificate of registered sectional title or **[any such sectional title deed which is endorsed in terms of section 15(1)(a)] a deed of transfer;**”;

(g) by the substitution in the said subsection (1) for paragraph (a) of the definition of “unanimous resolution” of the following paragraph:

“(a) passed unanimously by **[at least 80% of]** all the members of a body corporate **[(reckoned in number) and at least 80% of all the members (reckoned in value), and]** who are present or represented by proxy or by a representative recognized by law at a general meeting of the body corporate of which at least 30 days’ written notice, specifying the proposed unanimous resolution, has been given, and at which meeting at least 80% of all the members of a body corporate (reckoned in number) and at least 80% of all the members (reckoned in value) are present or so represented: Provided that in circumstances determined in the rules, a meeting of the body corporate may be convened for a date 30 days or less after notice of the proposed resolution has been given to all the members of the body corporate; or”;

(h) by the addition of the following subsection:

“(4) The Minister may by notice in the *Gazette* declare any institution or body established by or under the provisions of any other law and which exercises powers and performs duties which, in the opinion of the Minister, correspond with the powers and duties ordinarily exercised or performed by an institution or body referred to in the definition of ‘local authority’, to be a local authority for the purposes of this Act.”.

#### Amendment of section 4 of Act 95 of 1986

2. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) A scheme may relate to more than one building situated, **[or]** to be erected or being in the process of erection on the same piece of land, or **[to]** on more than one piece of land **[as contemplated in section 5(7)]**, whether contiguous or non-contiguous: Provided that the building or buildings to be divided into sections shall be situated only on one such piece of land or on two or more such contiguous pieces of land registered in the name of the same person and which have been notarially tied.”;

- (b) by the insertion after subsection (3) of the following subsection:  
“(3A) For the purposes of subsection (3) ‘lessee’ means a lessee who is a party to a lease entered into with the developer.”;
- (c) by the substitution for paragraph (d) of subsection (5) of the following paragraph: 5  
“(d) the building or buildings to which the scheme relates, was or were erected in accordance with any applicable building regulations or building by-laws in operation at the date of erection.”; and
- (d) by the insertion after subsection (5) of the following subsection: 10  
“(5A) If any application in terms of subsection (1) relates to a building which is in the process of being erected, the local authority shall grant the application if such building—  
 (i) is sufficiently completed for the measurements contemplated in section 6(1) to be undertaken; and  
 (ii) whilst the erection thereof is not yet completed, complies with the other applicable requirements referred to in subsection (5).”. 15

#### Amendment of section 5 of Act 95 of 1986

3. Section 5 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (3) of the following paragraph: 20  
“(b) indicate the name of the scheme [building or buildings shown thereon].”; and
- (b) by the deletion of subsection (7).

#### Amendment of section 7 of Act 95 of 1986

4. Section 7 of the principal Act is hereby amended— 25
- (a) by the substitution for subsection (2) of the following subsection:  
“(2) The submission of the draft sectional plan to the Surveyor-General shall be accompanied by—  
 (a) a certificate of the local authority signifying its approval of the scheme as reflected on the draft sectional plan [and 30  
(b) the schedule referred to in section 5(3)(g)].”; and
- (b) by the deletion of subsection (5).

#### Amendment of section 11 of Act 95 of 1986

5. Section 11 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (3) of the following paragraph: 35  
“(d) any mortgage bond to which the land may be subject, together with the consent of the mortgagee to the opening of the sectional title register and to the endorsement of such bond to the effect that it attaches to—  
 (i) the sections and common property shown on the sectional plan;  
 (ii) the certificate of real right in respect of a right reserved by him in terms of section 25(1); and 40  
(iii) the certificate of real right in respect of a right of exclusive use as contemplated in section 27(1);”.

#### Amendment of section 12 of Act 95 of 1986

6. Section 12 of the principal Act is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph: 45  
“(f) issue to the developer, in the prescribed form, a certificate of real right in respect of a right of exclusive use as contemplated in section 27(1), subject to any mortgage bond registered against the title deed of the land; and”. 50

**Amendment of section 13 of Act 95 of 1986**

7. Section 13 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A sectional plan, together with the schedule of servitudes and conditions referred to in section 11(3)(b), shall upon the registration of such plan **[and a deeds registry’s duplicate of a certificate of registered sectional title shall upon the registration of such title deed, be deemed to be embodied in the relevant sectional title register]** be deemed to be part of the sectional title deed, and an owner’s title to his section and his undivided share in the common property shall be subject to or shall be benefited by the servitudes, other real rights or conditions (if any) which burden or benefit the land shown on the sectional plan, and shall also be subject to any registrable condition imposed by the local authority or the Administrator when approving the scheme, or by a developer in terms of section 11(2).”.

**Amendment of section 14 of Act 95 of 1986**

8. Section 14 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The Surveyor-General shall advise the registrar and the local authority of any alteration, amendment or substitution of a sectional plan in terms of subsection (1) which affects the description or extent of any section, and thereupon the registrar shall make the necessary endorsements reflecting any change of description or extent upon the deeds registry copy of the **[certificate of registered]** sectional title deed and upon any other registered document affected by such change, and shall likewise endorse the owner’s or holder’s copy of that sectional title deed or any such other registered document whenever subsequently lodged at the deeds registry for any purpose.”.

**Substitution of section 15 of Act 95 of 1986**

9. The following section is hereby substituted for section 15 of the principal Act:

**“Preparation of deeds by conveyancer**

15. (1) Subject to the provisions of this Act or any other law, the registrar shall not attest, execute or register any deed of transfer, sectional mortgage bond, certificate of title or certificate of registration of any kind whatsoever, unless it has been prepared by a conveyancer practising within the province within which the registry of the registrar concerned is situated.

(2) A conveyancer referred to in subsection (1), wherever he may practise, may only recover those fees and charges prescribed by regulation.”.

**Insertion of sections 15A and 15B in Act 95 of 1986**

10. The following sections are hereby inserted in the principal Act after section 15:

**“Proof of certain facts in connection with deeds and documents by means of certain certificates**

15A. (1) A conveyancer who prepares a deed or other document for the purposes of registration or filing in a deeds registry, and who signs a prescribed certificate on such deed or document, accepts by virtue of such signing the responsibility, to the extent prescribed by regulation for the purposes of this section, for the accuracy of the facts mentioned in such deed or document or which are relevant in connection with the registration or filing thereof, and which are prescribed by regulation.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer who is prescribed by regulation and who has in accordance with the regulations prepared a deed or other document, prescribed by regulation, for registration or filing in a deeds registry.

(3) A registrar shall accept, during the course of his examination of a deed or other document in accordance with the provisions of this Act, that the facts referred to in subsection (1) in connection with the registration or filing of a deed or other document in respect of which a certificate referred to in subsection (1) or (2) has been signed, have for the purposes of such examination been conclusively proved: Provided that the foregoing provisions of this subsection shall not derogate from the obligation of a registrar to give effect to any order of court or any other notification recorded in the deeds registry in terms of this Act or a provision in any other law contained and which affects the registration or filing of such deed or other document.

### Registration of transfer of ownership and other rights

**15B.** (1) When a sectional title register has been opened and the sectional plan concerned has been registered—

- (a) ownership in any unit or land, or any undivided share in such unit or land, held under a sectional title deed shall, subject to the provisions of this Act or any other law, be transferred by means of a deed of transfer signed or attested by the registrar: Provided that where the State acquires all the units or land held under any sectional title deed, whether by way of expropriation or otherwise, or where a local authority by virtue of the provisions in any other law contained, acquires all the units or land held under a sectional title deed by any other such authority, the registrar shall make such alterations and entries in his registers and such endorsements on any such title deed as may be necessary to register transfer to the State or such authority, as the case may be, of the property so acquired free of charge, and that the provisions of section 31(4)(a) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), shall apply *mutatis mutandis* in respect of such a transfer by endorsement;
- (b) the registrar shall register any notarial lease of a unit or an undivided share in a unit and any notarial cancellation or modification of such a lease by means of an endorsement made by him on the sectional title deed, and he shall register any notarial sub-lease and any notarial cession of such a lease or sub-lease and any notarial cancellation or modification of such a sub-lease by means of an endorsement made by him on the lease in question: Provided that if any such lease or sub-lease has lapsed by effluxion of time, the registrar shall cancel the registration on production of proof that the lease or sub-lease has so lapsed;
- (c) the registrar shall register any sectional mortgage bond by which a unit or an undivided share in a unit or land held under a sectional title deed, or a registered lease or sub-lease of a unit or an undivided share in a unit or such land, or any registered real right in or over any such unit or undivided share in a unit or land, is hypothecated, and any cession, cancellation or modification of such bond, by means of an endorsement made by him on the sectional title deed or on the registered lease or sub-lease or bond or other deed; and
- (d) the registrar shall register any other real right (which is embodied in a notarial deed) in or over a unit or an undivided share in a unit or land held under a sectional title deed, and any notarial cancellation or modification of such a real right, by means of an endorsement made by

him on the sectional title deed: Provided that in the case of any registered real right which has lapsed for any reason, the registrar shall cancel the registration on production of proof that the real right has lapsed.

(2) Notwithstanding anything to the contrary in any other law contained, it shall not be necessary to annex a diagram to any sectional title deed under which a unit or an undivided share in a unit is held, if reference is made in such deed to the registered sectional plan.

(3) The registrar shall not register a transfer of a unit or of an undivided share therein, unless there is produced to him—

(a) a conveyancer's certificate confirming—

(i) (aa) that, if a body corporate is deemed to be 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 said unit have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof; or

(bb) that, if a body corporate is not deemed to be established, no moneys are payable;

(ii) that no real right of extension of a scheme as contemplated in section 25 is registered in favour of a developer or the body corporate or, if such right is so registered, that it is disclosed in the deed of alienation to the transferee as contemplated in section 25(14) or, if it is not so disclosed, that the transferee after the conclusion of the deed of alienation has in writing exercised his option in terms of section 25(15) and that he has elected not to annul the alienation on the ground of the said defect;

(b) if by any law provision has been made for the separate rating of units, a clearance certificate of the local authority to the effect that all rates and moneys due to the local authority under any law before any such proof can be issued, have been paid;

(c) if the transferor is a developer, an affidavit by the developer in which it is declared whether the relevant unit is a unit to which the provisions of section 10 apply or not and, if those provisions so apply, that the transfer is effected in terms of a contract which is not contrary to any provision of that section.

(4) A unit shall be capable of being held by two or more persons in joint ownership.

(5) Any person who is the joint owner of a unit held by such person and one or more other persons under one sectional title deed may, upon application to the registrar in the prescribed manner, obtain a certificate of registered sectional title in the prescribed form in respect of his undivided share in such unit, and no transfer of a fraction only of his undivided share in such unit and no hypothecation or lease of the whole or any fraction of his undivided share in such unit shall be registered in a deeds registry, unless a certificate of registered sectional title in the prescribed form in respect of such undivided share is produced to the registrar.

(6) The conveyancer who has prepared a deed of transfer in terms of section 15 shall retain his file, with such documents as may be prescribed relating to the transaction in question, for a period of at least six years after the date of registration of such deed of transfer.”

#### Amendment of section 17 of Act 95 of 1986

11. Section 17 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (3) for the words preceding the first proviso of the following words:

“if the holders of bonds over units in the scheme consent in writing thereto, register transfer of land comprised in the common property, **[by issuing to the transferee a certificate of registered sectional title in the prescribed form for the land transferred]** and thereupon the land shall revert to the land register and the registrar shall make an appropriate endorsement and entry on such title and in his records to give effect thereto.” 5

#### Amendment of section 22 of Act 95 of 1986

12. Section 22 of the principal Act is hereby amended—

- (a) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively: 10
- “(a) **[a copy]** two copies of the sectional plan of subdivision together with a schedule, certified by a conveyancer, of any registrable conditions imposed by the local authority or Administrator when approving the subdivision;
- (b) the **[certificate of registered]** sectional title deed in respect of the section to be subdivided;” 15
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) When the requirements of this section and **[of]** any other relevant law have been complied with, the registrar shall register the sectional plan of subdivision referred to in subsection (1), furnish a copy of the sectional plan of subdivision to the local authority concerned and notify the Surveyor-General **[and the local authority]** of the registration of the sectional plan of subdivision, and thereupon the Surveyor-General shall amend the original sectional plan and the deeds office copy of the sectional plan to reflect such subdivision.” 20 25

#### Amendment of section 23 of Act 95 of 1986

13. Section 23 of the principal Act is hereby amended—

- (a) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively:
- “(a) **[a copy]** two copies of the sectional plan of consolidation, together with a schedule certified by a conveyancer of any registrable conditions imposed by the local authority or the Administrator when approving the consolidation; 30
- (b) the **[certificates of registered]** sectional title deeds in respect of the sections to be consolidated;” 35
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) When the requirements of this section and any other relevant law have been complied with, the registrar shall register the sectional plan of consolidation referred to in subsection (1), furnish a copy of the sectional plan of consolidation to the local authority concerned and notify the Surveyor-General **[and the local authority]** of the registration of the sectional plan of consolidation, and thereupon the Surveyor-General shall amend the original sectional plan and deeds office copy of the sectional plan to reflect such consolidation.” 40
- (c) by the substitution for subsection (5) of the following subsection: 45
- “(5) Simultaneously with the registration of the sectional plan of consolidation, the registrar shall, in lieu of the **[certificates of registered]** sectional title deeds referred to in subsection (2)(b), issue the certificate of registered sectional title referred to in subsection (2)(d), and thereupon the provisions of subsection (5) of section 22 relating to the endorsements and entries to be made in the deeds registry records, and of subsection (6) of that section, shall apply *mutatis mutandis*.” 50

#### Amendment of section 24 of Act 95 of 1986

14. Section 24 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (6) of the following paragraph: 55



- “(a) **[a copy]** two copies of the sectional plan of extension of a section;”;
- (b) by the substitution for paragraph (c) of subsection (6) of the following paragraph:
- “(c) the **[certificate of registered]** sectional title deed in respect of the section to be extended;”;
- (c) by the substitution for subsection (7) of the following subsection:
- “(7) When the requirements of this section and of any other relevant law have been complied with, the registrar shall register the sectional plan of extension of a section, and shall make an appropriate endorsement on the title referred to in subsection (6)(c), if the floor area of the section is increased by the extension, and such consequential endorsements against any deed registered against the title deed as may be necessary, and he shall furnish a copy of the sectional plan of extension to the local authority concerned and notify the Surveyor-General [and the local authority] of the registration of the sectional plan of extension, and thereupon the Surveyor-General shall amend the original sectional plan and the deeds office copy of the sectional plan to reflect such extension of a section.”.

#### Amendment of section 25 of Act 95 of 1986

15. Section 25 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) A developer may, subject to the provisions of section **[5(7)] 4(2)**, in his application for the registration of a sectional plan, reserve, in a condition imposed in terms of section 11(2), the right to erect and complete from time to time, but within a period stipulated in such condition, for his personal account—
- (a) a further building or buildings; **[or]**
- (b) a horizontal extension of an existing building, **[or]**
- (c) a vertical extension of an existing building, on a specified part of the common property, and to divide such building or buildings into a section or sections and common property and to confer the right of exclusive use over parts of such common property upon the owner or owners of one or more **[of such]** sections.”;
- (b) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively:
- “(a) a **[building]** plan **[approved by the local authority]** to scale of the building or buildings to be erected and **[indicating]** on which—
- (i) the part of the common property affected by the reservation;
- (ii) the siting, height and coverage of all buildings;
- (iii) the entrances and exits to the land;
- (iv) the building restriction areas, if any;
- (v) the parking areas; and
- (vi) the typical elevation treatment of all buildings, are indicated;
- (b) a plan to scale showing the manner in which the building or buildings to be erected are to be divided into a section or sections and any exclusive use areas;”;
- (c) by the substitution for paragraph (f) of subsection (2) of the following paragraph:
- “(f) **[a prescribed form on which a]** the certificate of real right which is to be issued **[to the developer]** in terms of section 12(1)(e); and”;
- (d) by the substitution for subsection (6) of the following subsection:
- “(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 shall vest in the body corporate, which shall be entitled, subject to the provisions of this section and after compliance,

*mutatis mutandis*, 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.”;

(e) by the substitution for paragraph (a) of subsection (10) of the following paragraph:

“(a) **[a copy]** two copies of the sectional plan of extension;”;

(f) by the deletion of paragraph (e) of subsection (10); and

(g) by the substitution for paragraph (c) of subsection (11) of the following paragraph:

“(c) simultaneously with the registration of the sectional plan of extension issue to the developer, his successor in title or the body corporate, as the case may be, a certificate of registered sectional title in respect of each section depicted on the sectional plan of extension and its undivided share in the common property, **[and notify]** furnish the local authority concerned with a copy of such plan of extension and notify the Surveyor-General of the registration of such plan of extension, and thereupon the Surveyor-General shall amend the original sectional plan and the deeds office copy of the sectional plan to reflect such extension; and”.

#### Amendment of section 26 of Act 95 of 1986

16. Section 26 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The registrar shall register a plan of extension of the common property in terms of this section by making an endorsement on the relevant title deed to reflect that the land concerned has been incorporated in the sectional plan, shall make such further endorsements and entries in his records as may be necessary to give effect thereto, and shall **[notify]** furnish a copy of the sectional plan of extension to the local authority concerned and notify the Surveyor-General of the registration of such plan of extension, and thereupon the Surveyor-General shall amend the original sectional plan and deeds office copy of the sectional plan to reflect such extension.”.

#### Amendment of section 27 of Act 95 of 1986

17. Section 27 of the principal Act is hereby amended—

(a) by the addition of the following proviso to paragraph (b) of subsection (1):

“: Provided that when the developer has transferred the last section in a scheme, he shall cede to the body corporate the right to any exclusive use area still registered in his name free of charge and without any compensation.”; and

(b) by the substitution for subsections (4) and (5) of the following subsections, respectively:

“(4) An owner of a section in whose favour the right to the exclusive use of a part of the common property delineated on the sectional plan is registered, may **[with the written consent of the mortgagee of the relevant section]** transfer his interest in such right to the owner of another section in the **[building]** scheme by the registration by the registrar of a notarial deed of cession entered into by the parties **[Provided that where such right is enjoyed jointly with the owners of other sections, the consent in writing of such other owners to the transfer shall be produced to the registrar]**.”.

(5) A right to the exclusive use of a part of the common property delineated on the sectional plan registered in favour of an owner of a section may with the written consent of the mortgagee of the relevant section be cancelled by the registration by the registrar of a notarial deed of cancellation entered into by the owner of the section entitled to such right and the body corporate, duly authorized by a special resolution of its members, on behalf of all the owners of sections in the **[building scheme]**.” 5

#### Amendment of section 34 of Act 95 of 1986

18. Section 34 of the principal Act is hereby amended by the substitution for subsections (3) and (4) of the following subsections, respectively: 10

“(3) When a developer has **[prior to the body corporate being established]** in one transaction alienated the whole of his interest in the land and the building or buildings comprised in a scheme, or a share in the whole of such interest, to any other person, the registrar shall register the transaction by **[endorsing the fact of such alienation and the full name of the successor in title on the developer’s sectional title deeds]** means of a deed of transfer. 15

(4) **[The provisions of section 15(4)(a), (c), (d), (e), (6) and (10) shall apply mutatis mutandis to a transfer pursuant to a transaction referred to in subsection (3): Provided that]** The registrar shall not register **[such]** the transfer of a transaction referred to in subsection (3) unless there is produced to **[him]** the registrar a clearance certificate **[by]** of the local authority that all rates and **[levies]** moneys due to that local authority in respect of the land concerned have been paid up to and including the day of transfer.”. 20

#### Amendment of section 35 of Act 95 of 1986

19. Section 35 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively: 25

“(a) management rules, prescribed by regulation, **[for]** which **[other]** rules may 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 from time to time by unanimous resolution of the body corporate as prescribed by regulation; 30

(b) conduct rules, prescribed by regulation, **[for]** which **[other]** rules may 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 from time to time by special resolution of the body corporate: Provided that any conduct rule substituted, added to or amended by the developer, or any substitution, addition to or amendment of the conduct rules by the body corporate, may not be irreconcilable with any prescribed management rule contemplated in paragraph (a).” 35

#### Amendment of section 49 of Act 95 of 1986

20. Section 49 of the principal Act is hereby amended— 45

(a) by the substitution for paragraph (d) of subsection (3) of the following paragraph:

“(d) the sectional title deeds of **[the co-owners of the land]** units which are thus deemed to be destroyed as well as the title deeds regarding any right to an exclusive use area and any right to the extension of a scheme referred to in section 25, together with any mortgage bond over the said rights, shall be surrendered to the registrar for cancellation.”; 50

(b) by the substitution for subsection (4) of the following subsection: 55

“(4) Upon the reversion of the land to the land register, the registrar shall—

- (a) cancel the title deeds referred to in subsection (3)(d);
- (b) issue to each of the owners of a unit which is thus deemed to be destroyed a certificate of registered title in the form prescribed under the Deeds Registries Act for his undivided share in the land, subject or entitled to such servitudes, mortgage bonds, other real rights and conditions which are applicable to or in respect of such land; 5
- (c) make suitable endorsements on any sectional mortgage bond, lease or other real right to reflect the conversion referred to in subsection (3)(b); 10
- (d) re-register any sectional mortgage bond, lease or other real right referred to in subsection (3)(b) as a mortgage bond, lease or real right in terms of the Deeds Registries Act; 15
- (e) make an endorsement on the schedule referred to in section 11(3)(b) to reflect the reversion of the land; and
- (f) notify the Surveyor-General and the local authority of the said reversion of the land.”.

**Substitution of section 50 of Act 95 of 1986**

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21. The following section is hereby substituted for section 50 of the principal Act:

**“Unencumbered sections destroyed by State or local authority**

50. (1) Where the State or a local authority is the owner of a section in a building which is not encumbered by a mortgage, lease or real right, and such section has been destroyed to give effect to a project or scheme for the benefit of the public, the State or local authority, as the case may be, may, after advising the body corporate of its intention to do so, notify the registrar to this effect and apply for the cancellation of the relevant **[certificate of registered]** sectional title deed. 25 30

(2) An application in terms of subsection (1) shall be accompanied by the owner’s copy of the relevant **[certificate of registered]** sectional title deed.

(3) On receipt of such application, the registrar shall cancel the deeds office’s and owner’s copy of the relevant **[certificate of registered]** sectional title deed and shall make the necessary consequential entries in his records and notify the Surveyor-General and the local authority concerned accordingly, and thereupon the undivided share in the common property that was held under that **[certificate of registered]** sectional title deed shall vest in the owners of the remaining sections in the building proportionately to their respective participation quotas. 35 40

(4) On receipt of a notification referred to in subsection (3) and an amended schedule referred to in section 5(3)(g), prepared by an architect or land surveyor and to be furnished by the State or local authority, as the case may be, the Surveyor-General shall amend the original plan and the deeds office copy of the sectional plan to give effect to the cancellation of the **[certificate of registered]** sectional title deed referred to in the notification.”. 45 50

**Amendment of section 54 of Act 95 of 1986**

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22. Section 54 of the principal Act is hereby amended by the substitution for subsection (9) of the following subsection:

“(9) A member of the regulation board, excluding a member in the fulltime service of the State, shall, while he is engaged in the business of the regulation board, be paid such remuneration and travelling and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine.”. 55

**Amendment of section 55 of Act 95 of 1986**

23. Section 55 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) the manner and the unit of measure in which measurements shall be taken in the preparation or modification of a draft sectional plan or sectional plan, and the manner and form in which the records of such measurements shall be prepared and lodged with the Surveyor-General; the degree of accuracy to be obtained and the limit of error to be allowed in the taking of a measurement in the preparation or modification of a draft sectional plan or sectional plan; the steps to be taken by [a] the Surveyor-General to test the correctness or accuracy of measurements of which the results are recorded on a draft sectional plan, sectional plan or other plan relating thereto or filed in his office in connection with a plan or sectional plan; and the steps to be taken by the Surveyor-General in the event of a measurement being inaccurate or incorrect to cause the defective sectional plans and relative title deeds to be amended;”.

**Substitution of section 58 of Act 95 of 1986**

24. The following section is hereby substituted for section 58 of the principal Act:

**“Powers of Surveyor-General regarding sectional plans registered in terms of Sectional Titles Act, 1971**

58. The Surveyor-General may perform any act in relation to a sectional plan registered by a registrar in terms of the Sectional Titles Act, 1971 (Act No. 66 of 1971), that he would be empowered to perform if such sectional plan had been approved by him in terms of this Act, and he shall in collaboration with the registrar **[cause copies of such sectional plans to be made for filing of record in his office]** arrange that the original sectional plan be filed in his office and that a certified copy thereof be furnished for filing in the office of the registrar.”.

**Amendment of section 60 of Act 95 of 1986**

25. Section 60 of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:  
 “(3) Where an owner has, prior to the commencement of this Act, acquired in terms of an agreement or been granted in terms of rules made under the Sectional Titles Act, 1971, [been granted] the right to the exclusive use of a part or parts of common property, the body corporate concerned shall, if so requested after the commencement date by the owner, and if any mortgagee of the owner’s section consents in writing thereto, transfer such right to the owner by the registration of a notarial deed entered into by the parties, in which the body corporate shall represent the owners of all relevant sections as transferor.”;
- (b) by the insertion after subsection (6) of the following subsection:  
 “(6A) Notwithstanding the provisions of subsection (6) the rules referred to in that subsection that were not lodged with the registrar within the period referred to in that subsection may be lodged with the registrar within a period of 12 months after the commencement of the Sectional Titles Amendment Act, 1991.”; and
- (c) by the substitution in subsection (8) for the words preceding the proviso of the following words:  
 “Subject to the provisions of subsection (4) of this section, any rules other than rules referred to in subsection (7) of this section,

applying in respect of a scheme immediately prior to the commencement date, shall, subject to such substitution, addition, amendment or repeal as contemplated in paragraph (a) or (b) of section 35(2) of this Act, 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 rule contemplated in section 35(2)(a), in which case the management rule concerned shall apply:” 5

**Short title**

**26.** (1) This Act shall be called the Sectional Titles Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 10

(2) Section 25(a) and (c) of this Act shall be deemed to have come into operation on 1 June 1988.