
GOVERNMENT NOTICE

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**No. R. 820****28 September 2011****SECTIONAL TITLES ACT, 1986: AMENDMENT OF REGULATIONS**

I, Gugile Ernst Nkwinti, Minister of Rural Development and Land Reform, 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. The Regulations will come into operation one month from the date of publication hereof in the *Gazette*.

**NKWINTI G E (MP)****MINISTER OF RURAL DEVELOPMENT AND LAND REFORM**

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.

Amendment of regulation 5

2. Regulation 5 of the Regulations is hereby amended by the substitution in subregulation (1) for paragraph (m) of the following paragraph:

"(m) The common boundary between an exclusive use area created in terms of section 25(9), 27(1), 27(2) or 60(3) of the Act and a section or common property is, in the case of physical features, the median line of the dividing floor, wall, ceiling, fence or other similar feature, unless boundaries have been described in a different manner on the sectional plan; otherwise a boundary which is not a physical feature, shall be described in a manner acceptable to the Surveyor-General or in terms of beacons determined in accordance with the provisions of the Land Survey Act, 1997 (Act No. 8 of 1997), which beacons shall be described, and sufficient data given on such plan to define the area and to determine the location thereof in relation to the building, section or boundaries of the land."

Amendment of regulation 6

3. Regulation 6 of the Regulations is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) an affidavit issued by an architect or a land surveyor stating that the boundaries of the sections and common property are physically defined as contemplated in section 5(4) and (5) of the Act;"

Amendment of regulation 10

4. Regulation 10 of the Regulations is hereby amended by the addition of the following subregulation:

“(4) An application and consent for the substitution of the land under a mortgage bond in terms of section 11(3)(d) of the Act, shall be in the form of Form AL or Form AM in Annexure 1 where applicable.”.

Insertion of regulation 13A

5. The Regulations are hereby amended by the insertion after regulation 13 of the following regulation:

“Replacement schedule for lost or destroyed schedule of servitudes and conditions referred to in section 11(3)(b)

13A. (1) A registrar of deeds must, if a schedule referred to in section 11(3)(b) of the Act has been lost or destroyed, on written application by the body corporate or if a body corporate has not been established, on written application by the developer, accompanied by a replacement schedule, arrange for such replacement schedule to be filed in the relevant sectional title file.

(2) The registrar of deeds must, before filing of the replacement schedule in the relevant sectional title file, at the expense of his or her deeds registry, publish in the prescribed form in two consecutive ordinary issues of the *Gazette* and in two consecutive issues of a newspaper circulating in the area of jurisdiction of the deeds registry in which the scheme is registered, a notice of the intention for a replacement schedule to be filed in the relevant sectional title file.

(3) A draft of the replacement schedule accompanying the application, shall be open for inspection in the deeds registry free of charge by any interested person, for a period of six weeks after the date of the first publication of the notice in the *Gazette*, during which period any person interested may

object to the filing of such replacement schedule in the relevant sectional title file.

(4) Any person who has lodged with the registrar an objection to the filing of the replacement schedule in the relevant sectional title file may, in default of any arrangement between him or her and the applicant, apply to the court within one month after the last day upon which an objection may be lodged, for an order prohibiting the registrar from filing the replacement schedule in the relevant sectional title file, and the court may make such order on the application as it may deem fit.

(5) A replacement schedule shall be as nearly as possible a reflection of the lost or destroyed schedule and shall take the place of the lost or destroyed schedule and shall embody or refer to every condition, servitude, lease or other encumbrance which according to the records of the registry was embodied or referred to in the lost or destroyed schedule or in any endorsement thereon.

(6) A replacement schedule must be endorsed with a deeds registry date endorsement upon the filing thereof in the relevant sectional title file.

(7) In the event of a schedule referred to in section 11(3)(b) of the Act, in lieu of which a copy has been issued under the provisions of this regulation, being subsequently found and produced to the registrar, he or she shall endorse thereon that it has become void.”.

Amendment of regulation 15

6. Regulation 15 of the Regulations is hereby amended by the addition of the following subregulation:

“(8) The provisions of subregulations (5) to (7) shall apply with the necessary changes whenever the registration of a sectional plan is cancelled by an order of the Court in terms of section 14(8) of the Act.”.

Amendment of regulation 16

7. Regulation 16 of the Regulations is hereby amended –

- (a) by the substitution for paragraph (c) of subregulation (1) of the following paragraph:

“(c) Once a certificate has been issued in terms of paragraph (a), no further such certificate shall be issued in respect of the building concerned, but if required the registrar may issue a certified copy of the original certificate or a certificate of replacement as contemplated in paragraph (d).”;

- (b) by the addition after paragraph (c) of subregulation (1) of the following paragraph:

“(d)(i) A certificate of replacement in the form of Form AO in Annexure 1 shall be prepared by a conveyancer and lodged in duplicate with the registrar in instances where the original certificate referred to in subregulation (1)(b)(ii) has been lost or destroyed.

(ii) The original certificate of replacement shall replace the original certificate that has been lost or destroyed and must be endorsed with a deeds registry date endorsement upon filing thereof in the sectional title file, whereas the duplicate certificate of replacement must be delivered to the conveyancer.” ; and

- (c) by the substitution for subregulation (5) of the following subregulation:

“(5) A certificate of registered sectional title referred to in section 15B(5) and (5A) of the Act, shall be in the form of Form J in Annexure 1.”.

Amendment of regulation 25

8. Regulation 25 of the Regulations is hereby amended by the insertion after subregulation (2) of the following subregulation:

“(2A) The certificate of real right referred to in section 25(10)(d) of the Act, shall be in the form of Form G in Annexure 1.”.

Insertion of regulation 25A

9. The following regulation is hereby inserted after regulation 25 of the Regulations:

“Replacement of documentation referred to in section 25(2)

25A.(1) A registrar of deeds must, if any of the documentation referred to in section 25(2)(a), (b), (c), (d) or (g) of the Act have been lost or destroyed, on written application by the body corporate or if a body corporate has not been established, on written application by the developer, accompanied by replacement documentation, arrange for such replacement documentation to be filed in the relevant sectional title file.

(2) The registrar of deeds must, before filing of the replacement documentation in the relevant sectional title file, at the expense of his or her deeds registry, publish in the prescribed form a notice in two consecutive ordinary issues of the *Gazette* and in two consecutive issues of a newspaper circulating in the area of jurisdiction of the deeds registry in which the scheme is registered, of the intention for replacement documentation to be filed in the relevant sectional title file.

(3) A draft of the replacement documentation accompanying the application, shall be open for inspection in the deeds registry free of charge by any interested person, for a period of six weeks after the date of the first publication of the notice in the *Gazette*, during which period any person interested may object to the filing of replacement documentation in the relevant sectional title file.

(4) Any person who has lodged with the registrar an objection to the filing of the replacement documentation in the relevant sectional title file may, in default of any arrangement between him and the applicant, apply to the court within one month after the last day upon which an objection may be lodged, for an order prohibiting the registrar from filing the replacement documentation in the relevant sectional title file, and the court may make such order on the application as it may deem fit.

(5) The replacement documentation shall be as nearly as possible a reflection of the lost or destroyed documentation and shall take the place of the lost or destroyed documentation.

(6) The replacement documentation must be endorsed with a deeds registry date endorsement upon the filing thereof in the relevant sectional title file.

(7) In the event of any of the documentation referred to in section 25(2)(a), (b), (c), (d) or (g) of the Act, in lieu of which a copy has been issued under the provisions of this regulation, being subsequently found and produced to the registrar, he or she shall endorse thereon that it has become void.”.

Amendment of regulation 28

10. Regulation 28 of the Regulations is hereby amended -

(a) by the substitution for subregulation (1) of the following subregulation:

“(1) The exclusive use areas referred to in sections 5(3)(f) and 25(1) of the Act shall, where there is more than one area, be numbered and described in separate paragraphs in the certificate of real rights referred to in section 12(1)(f) of the Act.”; and

(b) by the substitution for subregulation (2) of the following subregulation:

“(2) Simultaneously with the transfer of a right to an exclusive use area referred to in sections 25(1), 27(3) and 60(3) of the Act, the

registrar shall make an endorsement under his or her signature on the schedule of conditions referred to in section 11(3)(b) of the Act and shall notify the surveyor-general accordingly.”.

Amendment of regulation 30

11. Regulation 30 of the Regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

“(4) The management rules set out in Annexure 8 may be added to, amended or repealed by unanimous resolution of the body corporate: Provided that no such addition, amendment or repeal shall be made until such time as there are owners, other than the developer, of at least 30 per cent of the units in the scheme save in the case of a body corporate which is established in a scheme which was approved in terms of the Sectional Titles Act, 1971.”.

Substitution of regulation 34

12. The following regulation is hereby substituted for regulation 34 of the Regulations:

“Sectional mortgage bonds

34.(1) A sectional mortgage bond hypothecating a unit held under a sectional title deed or an exclusive use area or the right to extend a scheme held under a certificate of real right, shall be substantially in the form of Form Z in Annexure 1, and shall be prepared by a conveyancer and be signed by the mortgagor, or his or her duly authorised agent, in the presence of a conveyancer, and the said form shall be suitable adapted when hypothecating land held under a sectional title deed or a registered notarial lease or sublease or other registered real right.

(2) A collateral sectional mortgage bond must be substantially in the form of Form AJ in Annexure 1.

(3) A surety bond must be substantially in the form of Form AK in Annexure 1.”.

Amendment of Annexure 1

13. Annexure 1 to the Regulations is hereby amended –

(a) by the substitution for the footnote to form F of the following footnote:

** Delete whichever is not applicable.

† State which rights, i.e. section 25(1)(a), (b), (c) are reserved and where such rights are subdivided, state each right in a separate paragraph.

‡ State name of township/suburb and local authority”;

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

“Form I

Prepared by me

Attorney/Notary/Conveyancer

(Use whichever is applicable.)

(State surname and initials in block letters.)

Registrar of Deeds

.....

APPLICATION UNDER SECTION 15B(5) OF THE SECTIONAL TITLES ACT, 1986

I, *owner/joint owner of (furnish particulars of unit) held by me, by virtue of ** hereby apply for a certificate of registered sectional title in respect of my (state extent of the share) share in the aforesaid unit.

.....
Applicant

.....
Date and place

* Omit whichever is not applicable.

** State type of sectional title deed and the number thereof.”;

(c) by the substitution for form J of the following form:

“Form J

Prepared by me

Conveyancer

(State surname and initials in block letters.)

CERTIFICATE OF REGISTERED SECTIONAL TITLE ISSUED UNDER SECTION *15B(5)/15B(5A) OF THE SECTIONAL TITLES ACT, 1986

I, Registrar of Deeds at, hereby certify that is the registered owner of an undivided share in 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 situate 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 section plan.

Held by the virtue of †

The unit 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;
- (ii) any alteration to the building or buildings or to a section or to the common property shown on the said sectional plan; and
- (iii) the following special conditions endorsed against the title deed or contained therein (if any):

.....
.....
.....

Signed at on

.....

Registrar of Deeds

Seal of Office

- * Omit whichever is not applicable.
- ** State name of township/suburb and local authority.
- † State type of sectional title deed(s) and the number(s) thereof.”;

(d) 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 the addition of sections and/or exclusive use areas/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./Section Nos. 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 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 and rights of exclusive use depicted on the common property as shown on the said sectional plan of *extension/subdivision/consolidation.

3. The issue of a certificate of real right in respect of a right to exclusive use as contemplated by section *25(11)/ 27(1) (if applicable).

Signed at on

.....

Signature of Owner

- * Delete whichever is not applicable.
- † Insert name of town/suburb and local authority.
- ‡ To be adapted for extension of sections and/or exclusive use areas and/or common property.
- § State type of sectional title deed(s) and the number(s) thereof.”;

(e) by the substitution for form AK of the following form:

“Form AK

Prepared by me

Conveyancer

(State surname and initials in block letters.)

SURETY BOND

Whereas (hereinafter referred to as the principal debtor), is truly and lawfully indebted in the sum of (.....) together with the

sum of (.....) as a preferent charge for costs and other matters to and on behalf of (describe the mortgagee), arising from and being as security for which indebtedness the said principal debtor has registered Mortgage Bond No , dated in the Deeds Registry at over the property/real right thereby especially hypothecated.

And whereas I, the undersigned (here describe the surety) has agreed to bind myself as surety and co-principal debtor for the due payment of the aforesaid sum and interest thereon and for the compliance with all the terms and conditions of the aforesaid principal bond as well as the terms and conditions referred to in the Annexure hereto, mortgaging as security for the fulfilment of the said obligations the hereinafter-mentioned property/real right;

Now therefore, I, the said declare myself to be truly and lawfully indebted and held and firmly bound to and on behalf of in the sum of arising from the considerations aforementioned under renunciation of the legal exceptions with the force and effect whereof I declare myself to be fully acquainted together with the sum of (.....) as a preferent charge for costs and other matters as more fully set out in the said principal bond;

And I bound myself to pay or cause to be paid to the mortgagee or other holder of this bond, his/her heirs, executors, administrators or assigns the said principal sum of with such interest as may from time to time become due and payable thereon in terms of the principal bond, and for the proper performance of the terms thereof I, the said declared to bind specially as a mortgage (describe the *section and its undivided share in the common property/exclusive use area/real right);

And I declare it to be a special condition of this bond that should the principal debtor fulfil all his/her obligations under the said principal bond by payment of all the sums due thereon by way of capital and interest and comply further with all the terms and conditions of the aforesaid bond, this bond shall become null and void.

Signed at on

.....
Surety or duly authorised agent

Before me

.....

Conveyancer

Registered at

On

.....

Registrar of Deeds

Seal of Office

ANNEXURE

I, the undersigned (the surety) declare that the surety bond to which this Annexure is attached is subject to the following terms and conditions:-**

.....
.....
.....

.....

Surety or duly authorised agent

.....

Conveyancer

- * Delete whichever is not applicable.
- ** Insert applicable terms and conditions.”;

(f) by the addition of the following forms:

“Form AL

Prepared by me

Attorney/Notary/Conveyancer
(Use whichever is applicable.)

(State surname and initials in block letters)

APPLICATION AND CONSENT IN TERMS OF SECTION 11(3)(d) OF THE SECTIONAL TITLES ACT, 1986

I, the developer having applied for the registration of a sectional plan SG. No. (insert here the sectional plan number issued by the surveyor-general) and the opening of a sectional title register in respect of the scheme known as

..... (insert here the name of the scheme) on the land (describe the land mortgaged under the bond), mortgaged under Bond (describe the number including the year number) and other land, do hereby apply for all the land shown on the sectional plan to be substituted for the land mortgaged under the said bond.

Signed at on

Witnesses:

- 1.
DEVELOPER
- 2.

and I,, the legal holder of the aforesaid bond do hereby consent to the substitution of all the land shown on the sectional plan for the land mortgaged under the bond.

Signed at on

Witnesses:

- 1.
LEGAL HOLDER
- 2.

N.B.: Alternatively the mortgagor and mortgagee may furnish their consents in separate documents.

Form AM

Prepared by me

Attorney/Notary/Conveyancer
(Use whichever is applicable.)

(State surname and initials in block letters.)

CONSENT

(To cancellation, release, cession, substitution, etc. of, from, or under Bond)

..... the undersigned, the legal holder of the undermentioned Bond, namely:.....
No. dated
Folio
passed by
in favour of
for the sum of
*and ceded to
*by Cession registered on date

Do hereby consent to

Signed at on

Witnesses:

1.

2.

Note: If Bond was not ceded delete*

Omit all irrelevant matter.

Form AN**NOTICE****LOST OR DESTROYED *SCHEDULE OF SERVITUDES AND
CONDITIONS/DOCUMENTATION ISSUED IN TERMS OF SECTION
25(2) OF THE SECTIONAL TITLES ACT, 1986**

(Form of publication in terms of regulation 13A/25A of the Regulations to the Act.)

Notice is hereby given that under the provisions of regulation *13A/25A of the Sectional Titles Act, 1986, I, the registrar of deeds at intend to arrange for the filing in the relevant sectional title file of a *Replacement Schedule of Servitudes and Conditions/Replacement Documentation issued in terms of section 25(2) of the Sectional Titles Act, 1986, in lieu of (here describe the lost or destroyed *Schedule of Servitudes and Conditions/Documentation issued in terms of section 25(2) of the Sectional Titles Act, 1986 and, if applicable, make reference to the previous issue where a copy has already been issued but is lost or destroyed), which has been lost or destroyed.

All persons having any objection to the filing in the relevant sectional title file of such *Replacement Schedule of Servitudes and Conditions/Replacement Documentation issued in terms of section 25(2) of the Sectional Titles Act, 1986, are hereby required to lodge the same in writing with the registrar of deeds at within six weeks after the date of the first publication in the *Gazette*.

Signed at on

.....
Registrar of Deeds

Seal of Office

* Delete whichever is not applicable.

Form AO

Prepared by me

Conveyancer

(State surname and initials in block letters.)

CERTIFICATE OF REPLACEMENT ISSUED IN TERMS OF REGULATION 16(d) OF THE SECTIONAL TITLES ACT, 1986

Registrar's number of Sectional Plan SS.....

WHEREAS the original certificate relating to the establishment of a body corporate, issued in terms of the provisions of section 36(1) of the Act, has been lost or destroyed;

AND WHEREAS it is a requirement in terms of regulation 16(d) of the Act that a certificate of replacement be filed in the sectional title file;

NOW therefore I, registrar of deeds at, in pursuance of the provisions of the said Act, do hereby certify that the body corporate designated as the Body Corporate of the scheme known as, sectional plan No. SS. in respect of the land and building or buildings situated at ** was established on

Signed at on

.....

Registrar of Deeds

Seal of Office

** State name of township/suburb/local authority/description of farm."

Amendment of Annexure 8

14. Annexure 8 to the Regulations is hereby amended –

(a) by the insertion in rule 31 after subrule (2) of the following subrule:

"(2A) Where the financial year-end and the annual general meeting of a body corporate do not coincide, the budget shall coincide with the financial year of the scheme.";

(b) by the deletion of subrule (4) of rule 31;

(c) by the substitution in rule 36 for subrule (1) of the following subrule:

"(1) Prior to the commencement of every financial year of the body corporate, the trustees shall cause to be prepared an itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year, which estimate shall be laid before the annual general meeting for consideration in terms of rule 56 hereof.";

(d) by the substitution in rule 39 for subrule (2) of the following subrule:

"(2) Delivery for purposes of subrule (1) shall be deemed to have been effected if the documents referred to are sent to the owner at the address referred to in rule 3(2), and to any mortgagee as aforesaid at the address of such mortgagee as reflected in the records of the body corporate: Provided that delivery for purposes of subrule (1) shall also be

deemed to have been effected on the owner if the said documents are transmitted by facsimile or electronic mail to a facsimile number or electronic mail address specified by such owner in writing for the purposes of receiving such documentation which specification shall only be effective on receipt thereof by the body corporate at its *domicilium*.”;

- (e) by the substitution in rule 54 for subrule (5) of the following subrule:

“(5) Inadvertent omission to give the notice referred to in subrule (1), or failure to deliver the documentation referred to in rule 39(1), to any person entitled to such notice or documentation, or the non-receipt of such notice or documentation by such person shall, save in the case of the persons contemplated in subrule (1)(b), not invalidate any proceedings at any such meeting.”;

- (f) by the substitution in rule 68 for paragraph (v) of subrule (1) of the following paragraph:

“(v) shall, when the purpose for which a section and exclusive use area is intended to be used, –

- (a) is shown expressly or by implication on a registered sectional plan;
- (b) is shown expressly or by implication on the original approved building plan thereof;
- (c) can be inferred from the provisions of the rules; or
- (d) is obvious from its construction, layout and available amenities,

not use, nor permit such section or exclusive use area to be used, for any other purpose: Provided that with the written consent of all owners such section or exclusive use area may be used for another purpose.”; and

- (g) by the substitution in rule 71 for subrule (4) of the following subrule:

“(4) If the parties cannot agree as to the arbitrator to be appointed in terms of subrule (3) within three days after the arbitration has been

demanded, the chief registrar of deeds or his or her nominee shall upon written application and subject to payment of the prescribed fee, in writing appoint an arbitrator within 7 days after he or she has been required to make the appointment so that the arbitration can be held and concluded without delay.”.

Short title

15. These regulations shall be known as the Sectional Titles Amendment Regulation 2011.