Sectional Titles Act
No 95 of 1986

(Assented to 8 September 1986)
(Date of commencement 1 June 1988)
(Afrikaans text signed by the State President)
as amended by
Sectional Titles Amendment Act, No 63 of 1991
Sectional Titles Amendment Act, No 7 of 1992
Sectional Titles Amendment Act, No 15 of 1993
Regional and Land Affairs Second General Amendment Act, No 170 of 1993
Proclamation No R9 of 1997
Sectional Titles Amendment Act, No 44 of 1997
Rental Housing Act, No 50 of 1999
Mining Titles Registration Amendment Act, No 24 of 2003
Sectional Titles Amendment Act, No 29 of 2003
Sectional Titles Amendment Act, No 7 of 2005
Sectional Titles Amendment Act, No 6 of 2006
Sectional Titles Amendment Act, No 11 of 2010
Sectional Titles Amendment Act, No 33 of 2013
Sectional Title Schemes Management Act, No 8 of 2011

GENERAL NOTICE
In terms of s.29 of Act No 44 of 1997, the word “Administrator”, wherever it occurs except in section 46, is substituted by the word “Premier”, in terms of s.30 of Act No 44 of 1997, the expression “operative town planning scheme”, wherever it occurs, is substituted by the expression “operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law”.

In terms of s.5 of Act No 6 of 2006, the expression “Land Survey Act, 1927 (Act No 9 of 1927)”, wherever it occurs, is substituted by the expression “Land Survey Act, 1997 (Act No 8 of 1997)”.

EDITORIAL NOTE
Amendment effected by the Mining Titles Registration Amendment Act No 24 of 2003, has been substituted by section 1 of the Minerals and Energy Laws Amendment Act, No 11 of 2005, with effect from 30 April 2004.

ACT
To provide for the division of buildings into sections and common property and for the acquisition of separate ownership in sections coupled with joint ownership in common property; the control of certain incidents attaching to separate ownership in sections and joint ownership in common property; the transfer of ownership of sections and the registration of sectional mortgage bonds over, and real rights in, sections; the conferring and registration of rights in, and the

disposal of, common property; and the establishment of a sectional titles regulation board; and to provide for incidental matters.
(Long title of the Act amended by Section 19 of the Sectional Titles Schemes Management Act, Act 8 of 2011)

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1. Definitions
(1) In this Act and the rules, unless the context otherwise indicates-

- Administrator

(Definition of “Administrator” substituted by s.1(a) of Act No 63 of 1991 and deleted by s.1(a) of Act No 44 of 1997)

- architect

'architect' means a person registered as a professional architect in terms of section 18(1)(a)(i) of the Architectural Profession Act, 2000 (Act No 44 of 2000), read with section 19 of that Act, and who has met the requirements set out in section 5(2) of this Act;
(Definition of “architect” amended by s.1 of Act No 33 of 2013)

- body corporate

'body corporate', means the body corporate as defined in the Sectional Titles Schemes Management Act;
(Definition of ‘body corporate’ amended by section 19 of the Sectional Titles Schemes Management Act, Act 8 of 2011)

- building

'building' means a structure of a permanent nature erected or to be erected and which is shown on a sectional plan as part of a scheme;

- Chief Director

(Definition of “Chief Director” deleted by s.1(a) of Act No 7 of 1992)

- Chief Ombud

‘chief ombud’ means the chief ombud as defined in the Community Schemes Ombud Service Act, 2011 (Act 9 of 2011)
(Definition of ‘Chief Ombud’ inserted by Section 19 of the Sectional Titles Schemes Management Act, Act 8 of 2011)

- Chief Surveyor-General

'Chief Surveyor-General' means the Chief Surveyor-General appointed in terms of section 2 of the Land Survey Act, 1997 (Act No 8 of 1997);
(Definition of “Chief Surveyor-General” inserted by s.1(b) of Act No 7 of 1992 and substituted by s.1(a) of Act No 6 of 2006)

- common property

'common property', in relation to a scheme, means-

(a) the land included in the scheme;
(b) such parts of the building or buildings as are not included in a section; and
(c) land referred to in section 26;

- conveyancer

‘conveyancer' means a conveyancer as defined in the Deeds Registries Act;

- Council

'Council' means, in relation to architects, the South African Council for Architects established in terms of the Architects' Act, 1970 (Act 35 of 1970), and, in relation to land surveyors, the South African Council for Professional Land Surveyors and Technical Surveyors established in terms of the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act 40 of 1984);

- court

'Court' means the provincial or local division of the High Court having jurisdiction and, for the purposes of section 44, a magistrates' court having jurisdiction;
(Definition of “Court” substituted by s.1(b) of Act No 44 of 1997)

- Deeds Registries Act

'Deeds Registries Act' means the Deeds Registries Act, 1937 (Act No 47 of 1937), and any regulation made thereunder;

- deeds registry

'deeds registry' means a deeds registry as defined in the Deeds Registries Act;

- developer

'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 the holder of the right referred to in section 25 to extend a scheme, or his successor in title, and includes-

(a) for the purposes of sections 4, 10 and 15B (3) (c), also the agent of any such person or his or her successor-in-title, or any other person acting on behalf of any of them; and
(Para. (a) substituted by s.1(c) of Act No 44 of 1997 and s 1 (a) of Act No 11 of 2010 and amended by s1 of Act No 33 of 2013)

(b) for the purposes of rebuilding any building that is deemed to have been destroyed, as contemplated in section 17 of the Sectional Title Schemes Management Act, the body corporate concerned;
(Definition of "developer" amended by s.1(b) of Act No 63 of 1991 and Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

- development scheme

'development scheme' means a scheme in terms of which a building or buildings situated or to be erected on land within the area of jurisdiction of a local authority is or are, for the purposes of selling, letting or otherwise dealing therewith, to be divided into two or more sections, or as contemplated in the proviso to section 2 (a);

- draft sectional plan

'draft sectional plan' means a sectional plan prepared in accordance with the provisions of section 5, but not yet approved by the Surveyor-General; and 'draft sectional plan of subdivision', 'draft sectional plan of consolidation' and 'draft sectional plan of extension' have a corresponding meaning;

- exclusive use area

'exclusive use area' means a part or parts of the common property for the exclusive use by the owner or owners of one or more sections;
(Definition of "exclusive use area" substituted by s.1 of Act No 7 of 2005)

- land

'land' means the land comprised in a scheme as shown on a sectional plan;

- land surveyor

'land surveyor' means a land surveyor as defined in section 2 of the Land Surveyor Act, 1977 (act No 8 of 1977) and who has met the requirements set out in terms of section 5(2) of this Act;
(Definition of "land surveyor" amended by s.1 of Act No 33 of 2013)

- lease

'lease' for the purposes of section 17(1) means a lease which-

(a) was entered into for a period of not less than ten years;

(b) was entered into for the natural life of the lessee or of any other person mentioned in the lease; or

(c) is renewable from time to time at the will of the lessee indefinitely or for periods which, together with the first period, amount in all to not less than 10 years;

(Definition of “lease” inserted by s.1(d) of Act No 44 of 1997)

- local authority

'local authority' means a municipality contemplated in section 151 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), exercising jurisdiction in the area in which the land is situated;
(Definition of “local authority” substituted by s.1(c) of Act No 63 of 1991 and by s.1(e) of Act No 44 of 1997)

- Minister

'Minister' means the Minister of Rural Development and Land Reform;
(Definition of “Minister” substituted by s.1(d) of Act no 63 of 1991, by s.1 of Act no 15 of 1993, by Proclamation no R9 of 1997 and by s1(b) of Act No 11 of 2010)

- notary public

'notary public' means a notary public as defined in the Deeds Registries Act;

- operative town planning scheme

'operative town planning scheme' means a town planning scheme map and accompanying town planning scheme clauses prepared in terms of any law;
(Definition of “operative town planning scheme” inserted by s.1(h) of Act no 44 of 1997)

- owner

'owner', means, in relation to-

(a) immovable property, subject to paragraph (b), the person registered as owner or holder thereof and includes the trustee in an insolvent estate, the liquidator of a company or close corporation which is an owner, and the executor of an owner who has died, or the representative, recognised by law, of an owner who is a minor or of unsound mind or is otherwise under a disability, if such trustee, liquidator, executor or representative is acting within the scope of his or her authority;

(Definition of owner amended by S.1(c) of Act No 11 of 2010)

(b) immovable property and real rights in immovable property-

(i) registered in the names of both spouses in a marriage in community of property, either one or both of the spouses;

(ii) registered in the name of only one spouse and forming part of the joint estate of both spouses in a marriage in community of property, either one or both of the spouses,
(Para (b) amended by s1(a) of Act no 29 of 2003)
and 'owned' and 'ownership' have a corresponding meaning;
(Definition of “owner” substituted by s.1(c) of Act no 7 of 1992 and by s.1(f) of Act No 44 of 1997)

- participation quota

'participation quota', in relation to a section or the owner of a section, means the percentage determined in accordance with the provisions of section 32 (1) or (2) in respect of that section for the purposes referred to in section 32 (3), and shown on a sectional plan in accordance with the provisions of section 5 (3) (g);

- prescribed

'prescribed' means prescribed by this Act or by regulation;

- quota

'quota', in relation to a section or the owner of a section, means the participation quota of that section;

- registrable

'registrable' means capable of being registered in terms of the Deeds Registries Act;

- registrar

'registrar' means a registrar of deeds as defined in the Deeds Registries Act;

- regulation

'regulation' means a regulation made and in force under this Act;

- rules

'rules', means rules as defined in Section 1 of the Sectional Title Schemes Management Act;
(Definition of ‘rules’ amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

- scheme

'scheme' means a development scheme;

- section

'section' means a section shown as such on a sectional plan;

- sectional mortgage bond

'sectional mortgage bond' means a mortgage bond hypothecating-

(a) a unit or an exclusive use area, land or an undivided share in such unit, area or land held under a separate sectional title deed; or
(b) a registered lease or sub-lease of any such unit, exclusive use area or land or an undivided share in such unit, area or land, which when it was entered into, was for a period of not less than 10 years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than 10 years; or
(c) any other registered real right in or over any such unit or undivided share in a unit or common property or the rights referred to in sections 25 and 27;
(Definition of “sectional mortgage bond” amended by s.1(e) of Act no 63 of 1991 and by s.1(d) of Act no 7 of 1992 and substituted by s.1(g) of Act no 44 of 1997 and by s.1(b) of Act no 6 of 2006)

- sectional plan

'sectional plan', in relation to a scheme, means a plan approved by the Surveyor-General-
(a) which is described as a sectional plan;
(b) which shows the building or buildings and the land comprised in the scheme, as divided into two or more sections and common property; and
(c) which complies with the requirements of section 5,
and includes a sectional plan of subdivision, consolidation or extension as provided for in this Act;

- sectional title deed

'sectional title deed' means a certificate of registered sectional title or a deed of transfer;
(Definition of “sectional title deed” substituted by s.1(f) of Act no 63 of 1991)

- sectional title register

'sectional title register' means the register referred to in section 12 (1) (b), and includes any sectional plan registered under this Act, and a deeds registry's duplicate of any certificate of registered sectional title deemed to be incorporated in such register;

- sectional title schemes management Act

‘Sectional Titles Schemes Management Act’ means the Sectional Titles Schemes Management Act, 2011 (Act 8 of 2011);
(Definition of Sectional Titles Schemes Management Act inserted by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

- special resolution

'special resolution' means, subject to subsection (2), a resolution passed by a majority of not less than three-fourths of the votes (reckoned in value) and not

less than three-fourths of the votes (reckoned in number) of members of a body corporate who are present or represented by proxy or by a representative recognized by law at a general meeting of which at least 30 days' written notice, specifying the proposed resolution, has been given, or a resolution agreed to in writing by at least 75% of all the members of a body corporate (reckoned in number) and at least 75% of all such members (reckoned in value) personally or by proxy or by a representative of any such member recognized by law: 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;

- statutory plan

'statutory plan' means a land development objective prepared in terms of Chapter IV of the Development Facilitation Act, 1995 (Act No. 67 of 1995), an integrated development plan prepared in terms of section 10D (4) (b) or section 2 of Schedule 2A to the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other integrated plan, layout plan or package of plans in force in the area and which has or have been approved by a competent authority in terms of any law.
(Definition of “statutory plan” inserted by s.1(i) of Act no 44 of 1997)

- Surveyor-General

'Surveyor-General' means a Surveyor-General appointed in terms of section 5 of the Land Survey Act, 1977 (Act 8 of 1997);
(Definition of “Surveyor-General” substituted by s.1(c) of Act no 6 of 2006)

- this Act

'this Act' includes the regulations;

- unanimous resolution

'unanimous resolution' means, subject to subsection (3), a resolution-

(a) passed unanimously by all the members of a body corporate 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

(Para (a) substituted by s.1(g) of Act no 63 of 1991)

(b) agreed to in writing by all the members of the body personally or by proxy or by a representative of any such member recognized by law;

- undivided share in common property

'undivided share in common property', in relation to an owner, means an undivided share of that owner in common property as determined in accordance with the quota of the section of which he is the owner and, in relation to a section, means an undivided share in common property apportioned to that section in accordance with the quota of the section;

- unit

'unit' means a section together with its undivided share in common property apportioned to that section in accordance with the quota of the section.

(2) …
(Subsection 2 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3) …
(Subsection 3 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3A) …
(Subsection 3A repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(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.
(Sub-s (4) added by s.1(h) of Act no 63 of 1991)

PART I
INTRODUCTORY PROVISIONS

2 Ownership and real rights in or over parts of buildings, and registration of title to ownership or other real rights in or over such parts
Notwithstanding anything to the contrary in any law or the common law contained-

(a) a building or buildings comprised in a scheme and the land on which such building or buildings is or are situated, may be divided into sections and common property in accordance with the provisions of this Act: Provided that where a scheme comprises more than one building, any

such building may, subject to section 5 (4), be so divided into a single section and common property;
(b) separate ownership in such sections or an undivided share therein may be acquired in accordance with the provisions of this Act;
(c) the owners of such sections shall own such common property in undivided shares in accordance with the provisions of this Act;
(d) any real right may be acquired in or over any such section or an undivided share therein or common property in accordance with the provisions of this Act; and
(e) a registrar may, in accordance with the provisions of this Act, register in a deeds registry a title deed whereby ownership in, or any lease of, or any other real right in or over, any such section or an undivided share therein or common property is acquired.

3 Application of Deeds Registries Act, reproduction of documents, and units deemed to be land

(1) Save as is otherwise provided in this Act or any other law or the context otherwise indicates, the provisions of the Deeds Registries Act shall, in so far as such provisions can be so applied, apply *mutatis mutandis* in relation to all documents registered or filed or intended to be registered or filed in a deeds registry in terms of this Act.

(2) The registrar concerned may reproduce or cause to be reproduced any document referred to in subsection (1) by means of microfilming or any other process which in his opinion accurately and durably reproduces any such document, and may preserve or cause to be preserved such reproduction in lieu of such document.

(3) A reproduction referred to in subsection (2) shall, for the purposes of a deeds registry, be deemed to be the original document, and a copy obtained by means of such reproduction and which has been certified by the registrar as a true copy of such reproduction, shall be admissible in evidence and shall have all the effects of the original document concerned.

(4) A unit shall be deemed to be land.

PART II
DEVELOPMENT SCHEMES, SECTIONAL PLANS AND SECTION TITLE REGISTERS

4 Approval of development schemes

(1) A developer who intends to establish a scheme shall cause a draft sectional plan to be submitted to the Surveyor-General in terms of section 7;.
(Sub-s (1) substituted by s.2(a) of Act no 44 of 1997)

(2) A scheme may relate to more than one building situated, to be erected or being in the process of erection on the same piece of land, or on more than one piece of land, 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.
(Sub-s (2) substituted by s.2(a) of Act no 63 of 1991)

(3) If a part of a building which is comprised in a proposed scheme and which after a division of the building will constitute a unit therein, is wholly or partially let for residential purposes, a developer shall not cause a draft sectional plan to be submitted as contemplated in subsection (1), unless-

(a) every lessee of a part which is so let for residential purposes-

(i) has been notified in writing by the developer or his or her agent, by letter delivered either personally or despatched by registered post, of a date, at least 14 days after the delivery or despatch of such letter, as the case may be, of a meeting of such lessees to be held in the building in question, or in another building within a reasonable distance from the first-mentioned building, within the area of jurisdiction of the local authority concerned, at which the developer intends to be available to provide the lessees with-

(aa) such particulars of the relevant scheme as they may reasonably require from him or her; and

(bb) the information regarding their rights as set out in section 10 of this Act; and

(ii) has at the same time, with the notice referred to in subparagraph (i), been provided by the developer with a certificate containing the prescribed particulars in respect of the relevant building, and parts thereof or units therein, and of the relevant scheme; and

(Sub-s (3)(a) amended by s.2(a) of Act no 33 of 2013)

(b) a meeting contemplated in paragraph (a) (i) has been held and the developer has been available thereat to provide the particulars contemplated in the said paragraph, and has answered all reasonable questions put to the developer by the lessees present: Provided that a developer need not comply with this subsection if all such lessees have stated in writing that they are aware of their rights which shall also be set out in such statement and that they do not wish to purchase the proposed units which they occupy and a conveyancer has certified in writing that such statements have been received in respect of all the units in question; Provided further that a share block company applying for the approval of a development scheme need not comply with the requirements of this subsection if that share block company has, within a period of two years before such application, already complied with the requirements of section 11A of the Share Blocks Control Act, 1980 (Act 59 of 1980).

(Sub-s (3) substituted by s.2(b) of Act no 44 of 1997 and Sub-s (3)(b) amended by s.2(b) of Act no 33 of 2013)

(3A) For the purposes of subsection (3) 'lessee' means a lessee who is a party to a lease entered into with the developer or any of his or her predecessors in title.
(Sub-s (3A) inserted by s.2(b) of Act no 63 of 1991 and substituted by s.2 of Act no 15 of 1993 and by s.2(b) of Act no 44 of 1997)

(4) ……..
(Sub-s (4) deleted by s.2(c) of Act no 44 of 1997)

(5) An architect or a land surveyor acting on behalf of a developer shall inspect the property, and, if-

(a) in regard to any matter other than the proposed use, the building to which the scheme relates does not comply with any operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law at the date of approval of the building plans;

(b) in regard to matters other than buildings, there is non-compliance with any applicable condition of any operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law;

(c) the building to which the scheme relates, has not been erected in accordance with any applicable building regulations or building by-laws in operation at the date of erection:

apply to the local authority concerned for the condonation of such non-compliance and the local authority may condone such non-compliance by issuing a certificate to the applicant; Provided that no certificate shall be issued for condonation of non- compliance with a national building regulation regarding the strength and stability of any building unless a deviation has been permitted or an exemption has been granted in terms of section 18 (2) of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).
(Sub-s (5) amended by s 2(c) of Act no 63 of 1991 and substituted by s 2(d) of Act no 44 of 1997)

(5A) …
(Sub-s (5A) inserted by s 2 (d) of Act no 63 of 1991, substituted by s 2(d) of Act no 44 of 1997 and deleted by s.2 of Act no 29 of 2003)

(6) …
(Sub-s (6) deleted by s 2(e) of Act no 44 of 1997)

(7) …
(Sub-s (7) deleted by s 2(e) of Act no 44 of 1997)

(8) …
(Sub-s (8) deleted by s 2(e) of Act no 44 of 1997)

(9) …
(Sub-s (9) deleted by s 2(e) of Act no 44 of 1997)

(10) …
(Sub-s (10) deleted by s 2(e) of Act no 44 of 1997)

(11) …
(Sub-s (11) deleted by s 2(e) of Act no 44 of 1997)

5 Manner of preparing draft sectional plans

(1) A draft sectional plan shall be prepared and signed by a land surveyor or an architect in accordance with the provisions of this Act, and the numerical and other data recorded thereon shall be within the prescribed limits of accuracy: Provided that the part of a draft sectional plan referred to in subsection (3) (a), and any delineation of an exclusive use area of which the boundaries are not represented by physical features of a permanent nature, shall be prepared by a land surveyor and signed by him.

(2) A draft sectional plan which has been prepared by a land surveyor or architect who has been required by the Chief Surveyor-General to sit for a prescribed examination in connection with the preparation of draft sectional plans, and which has been submitted to the Surveyor-General as required by section 7, shall not be accepted by the Surveyor-General unless the land surveyor or architect concerned has passed such examination.

(3) A draft sectional plan shall-

(a) delineate the boundaries of the land in accordance with the relevant diagram or general plan and the location of the relevant building or buildings in relation thereto: Provided that any error in such diagram or general plan in regard to the boundaries of the land shall be rectified in terms of the Land Survey Act, 1927 (Act 9 of 1927), prior to the preparation of the sectional plan: Provided further that if the Surveyor-General does not require rectification of such diagram or general plan, the land surveyor shall record his own dimensions on that part of the draft sectional plan referred to in this paragraph;

(b) indicate the name of the scheme;
(Para (b) substituted by s 3(a) of Act no 63 of 1991)

(c) include a plan to scale of each storey in the building or buildings shown thereon;

(d) subject to subsections (4) and (5), define the boundaries of each section in the building or buildings, and distinguish each section by a number;

(e) show the floor area to the median line of the boundary walls of each section, correct to the nearest square metre, and the total of the floor areas of all the sections;
(f) delineate in the prescribed manner any exclusive use area;
(g) have endorsed upon or annexed to it a schedule specifying the quota of each section in accordance with section 32 (1) or (2) and the total of the quotas of all sections shown thereon; and
(h) be drawn in such manner and contain such other particulars as may be prescribed.

(4) The common boundary between any section and another section or common property shall be the median line of the dividing floor, wall or ceiling, as the case may be.

(5) For the purposes of subsection (3) (d) the boundaries of a section shall be defined-

(a) by reference to the floors, walls and ceilings thereof, or as may be prescribed; Provided that any window, door or other structure which divides a section from another section or form common property, shall be considered to form part of such floor, wall or ceiling; and
(Definition of boundaries of section amended by s.2 of Act No 11 of 2010)
(b) in respect of a part of a section (such as a stoep, porch, balcony, atrium or projection) of which the boundaries cannot be defined in terms of paragraph (a) but being appurtenant to a part of that section which can be defined in terms of that paragraph, in the manner prescribed.

(6) A section may consist of non-contiguous parts of a building or buildings.

(7) …
(Sub-s (7) deleted by s 3(b) of Act no 63 of 1991)

6 Duties of land surveyors and architects and non-liability of State
(1) A land surveyor or architect preparing a draft sectional plan shall prepare the draft sectional plan from an actual measurement undertaken by him or under his direction in such manner as will ensure accurate results, and in accordance with this Act.

(2) Neither the State nor any officer or employee in the service of the State shall be liable for any defective measurement or work appertaining thereto performed by any land surveyor or architect, notwithstanding the fact that the sectional plan relating to such measurement or work has been approved by the Surveyor-General.

7 Approval of draft sectional plans by Surveyor-General
(1) When a draft sectional plan is submitted in terms of section 4, the land surveyor or architect concerned shall on behalf of the developer submit to the

Surveyor-General, for his or her approval, the prescribed number of copies of the draft sectional plan.
(Sub-s (1) substituted by s 3(a) of Act no 44 of 1997)

(2) The submission of the draft sectional plan to the Surveyor-General shall be accompanied by-

(a) a certificate issued by an architect or a land surveyor stating that the proposed division into sections and common property is not contrary to any operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law that may affect the development;
(Para (a) substituted by s 3(a) of Act no 29 of 2003)
(b) where applicable, a certificate issued by a local authority in terms of section 4(5);
(c) ……
(Para (c) deleted by s 3(b) of Act no 29 of 2003)
(d) .....
(Para (d) deleted by s 3(b) of Act no 29 of 2003)
(e) if section 4(3) applies to the scheme-

(i) an affidavit by the developer stating that that section has been complied with;
(ii) a copy of the notice referred to in section 4(3)(a)(i) and the certificate referred to in section 4(3)(a)(ii); and
(iii) where applicable, a certificate from a conveyancer in terms of the proviso to section 4(3);

(f) if section 4(3) does not apply to the scheme, an affidavit by the developer to that effect.
(Sub-s (2) substituted by s 4(a) of Act no 63 of 1991 and s 3(b) of Act no 44 of 1997)

(2A) The Surveyor-General shall not be responsible for investigating the correctness or accuracy of any document submitted to him or her in terms of subsection (2) or section 21, 24 or 25.
(Sub-s)2A) inserted by s 3(c) of Act no 44 of 1997)

(3) The manner of submission of the draft sectional plan and of all other documents to the Surveyor- General, shall be as prescribed.

(4) A Surveyor-General shall not approve a draft sectional plan, unless the applicable documents have been submitted to him or her in terms of subsection (2) and such plan has been prepared in accordance with this Act.
(Sub-s (4) substituted by s 3(d) of Act no 44 of 1997)

(5) …
(Sub-s (5) deleted by s 4(b) of Act no 63 of 1991)

8 Improper conduct of land surveyors and architects
A land surveyor or architect shall for the purposes of the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act 40 of 1984), and the Architects' Act, 1970 (Act 35 of 1970), as the case may be, be guilty of improper conduct, if he-

(a) signs, except as provided in such circumstances as may be prescribed, a draft sectional plan, a sectional plan or any other plan referred to in this Act, required in connection with the registration thereof, and in respect of which he or she has not carried out or supervised the measurements, and has not carefully examined and satisfied himself or herself of the correctness of the entries in any records and of the calculations in connection therewith which may have been made by any other person;
(Para (a) substituted by s 4(a) of Act no 44 of 1997)
(b) signs any defective plan knowing it to be defective;
(c) repeatedly performs defective sectional title surveys in respect of which adequate checks have not been applied;
(d) makes an entry in a field record, a copy of a field record or other document which purports to have been derived from actual measurement in the field, when it was in fact not so derived;
(e) supplies erroneous information to the Surveyor-General in connection with any scheme, knowing it to be erroneous;
(f) carries out his duties in terms of this Act in a manner which the Chief Surveyor-General finds after investigation to be incompetent or unsatisfactory; or
(g) contravenes a provision of this Act or fails to comply therewith,

and in the case of land surveyors, the Director General: Land Affairs or in the case or architects, the Director-General: Public Works, or any other official authorized thereto by the Director-General concerned, may refer a complaint in this regard to the relevant Council for investigation and the taking of such steps as the Council may deem fit.
(S 8 amended by s 4(b) of Act no 44 of 1997)

9 .....
(S 9 repealed by s 5 of Act no 44 of 1997)

10 Sale by developers of certain units occupied by certain lessees
(1) A developer shall, subject to subsection (5), not offer for sale or sell any unit in that building which is occupied by a lessee who was entitled to be notified in terms of section 4 (3) (a) (i), to any person other than such lessee, unless the developer has, by letter delivered either personally or by registered post, offered the unit for sale to the lessee and the lessee has refused the offer within a period of 90 days.
(Sub-s (1) substituted by s 6(a) of Act no 44 of 1997 and amended by s 18 of Act no 50 of 1999)

(2) If a lessee refuses an offer referred to in subsection (1) within the applicable period mentioned therein, or has at the expiration of such applicable period not accepted the offer, the developer shall not, within a period of 180 days from the date on which the lessee has refused the offer, or on which such applicable period has expired, as the case may be, offer for sale or sell the relevant unit to any person other than the lessee concerned at a price lower than the price at which it was offered for sale in terms of subsection (1) to the lessee, unless the developer has again offered the unit at that lower price for sale to the lessee and he has refused the offer within a period of 60 days from the date thereof, or has on the expiration of that period not accepted the offer.

(3) A developer-

(a) shall as from the date on which a lessee has been notified in terms of section 4 (3) (a) (i) by the developer of the meeting referred to in that section-

(i) subject to subparagraph (ii), as long as the lessee continues to occupy the relevant unit and to comply with the conditions of the relevant lease; or

(ii) after the unit has been offered for sale in accordance with subsection (1) to the lessee and the lessee has refused the offer or the relevant period referred to in subsection (1) has expired, as the case may be, until the date of expiry of the applicable period of 180 days referred to in subsection (2) or, where applicable, the period of 60 days referred to in the last-mentioned subsection, whichever date occurs last,

not require the lessee concerned to vacate the unit unless the lessee has been guilty of non-payment of rent, or has inflicted material damage to the unit, or has been guilty of conduct which is a nuisance to occupiers of other units in the building concerned; and

(b) shall in any case contemplated in paragraph (a) (ii), until the date of expiry of the applicable period of 180 days mentioned therein or, where applicable, the period of 60 days mentioned in that paragraph, whichever date occurs last, not require or permit the lessee to pay an amount of rent higher than the amount which was payable by the lessee on the date contemplated in subsection (1) on which the lessee refused the offer referred to in that subsection, or on which the relevant period referred to in that subsection expired, as the case may be:

Provided that the foregoing provisions of this subsection shall not derogate from any applicable provision of the Rent Control Act, 1976 (Act 80 of 1976).

(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 80 of 1976), for lessees of premises in respect 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 to that lessee or in the case of any other person only be offered for sale or sold to that person subject to the 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.
(Sub-s (4) substituted by s. 2 of Act no 7 of 1992)

(5) (a) Any contract of purchase and sale concluded contrary to the provisions of subsection (1), (2) or (4) shall be void,

(b) A developer or any person who has performed partially or fully in terms of a contract which is void by virtue of this subsection shall have a claim against the other party to the extent of such performance.

(c) A developer may in addition claim from any such person-

(i) reasonable compensation for the use which the person may have had of the building and land in question or any part thereof; and

(ii) compensation for any damage caused to that building or land or any part thereof by the person, or any other person for whose acts or omissions such person is delictually liable;

(d) A person to whom an option has been granted or a purchaser may in addition claim from the developer-

(i) interest at the prescribed rate on any payment made in terms of the contract, from the date of payment to the date of recovery thereof;

(ii) reasonable compensation for any expenses incurred by him or her with or without the authority of the developer for the preservation of the building or land, or part thereof, or in respect of any improvements which enhance the market value thereof and which were effected by him or her with the express or implied consent of the developer, and

(iii) compensation for any damage or loss suffered by him or her which he or she would otherwise have been entitled to claim from the developer on the ground of breach of contract had the contract not been void and had the developer failed to effect any transfer in accordance with the contract.

(Sub-s (5) substituted by s 6(b) of Act no 44 of 1997)

(6) A developer who-

(a) commits an act which, were it not for the provisions of subsection (5), would have constituted the sale of a unit contrary to any provision of subsection (1), (2) or (4); or

(b) contravenes any provision of subsection (3),

shall be guilty of an offence, and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

11 Applications for opening of sectional title registers

(1) A developer may, after approval of a draft sectional plan by the Surveyor-General, apply to the registrar in charge of the deeds registry in which the land comprised in the scheme is registered, for the opening of a sectional title register in respect of the land and building or buildings in question, and for the registration of the sectional plan.

(2) When making application for the opening of a sectional title register and the registration of a sectional plan, a developer may in the schedule referred to in subsection (3) (b) impose registrable conditions.

(3) An application in terms of subsection (1) shall be accompanied by-

(a) two copies of the sectional plan;

(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 developer in terms of subsection (2), as well as such other particulars as may be prescribed;

(Para (b) substituted by s 3(a) of Act no 7 of 1992 and by s 7(a) of Act no 44 of 1997)

(c) the title deed of the land in question;

(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 or certificates of real right in respect of a right reserved in terms of section 25 (1); and

(iii) the certificate or certificates of real right in respect of a right of exclusive use as contemplated in section 27 (1);

Provided that where a bond is registered against one or more pieces of land shown on the sectional plan, all the land shown on the sectional plan may, upon written application by the developer and with the written consent of the mortgagee, be substituted for the land originally mortgaged under the bond and if different pieces of land shown on the sectional plan are mortgaged under different bonds, the sectional plan may not be registered unless the bonds are cancelled.

(Para (d) substituted by s 5 of Act no 63 of 1991, amended by s 7(b) of Act no 44 of 1997 and amended by s.3(a) of Act 11 of 2010)

(e) a certificate by the Chief Ombud stating that the rules contemplated in section 10 of the Sectional Title Schemes Management Act have been approved;

(Para (e) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(f) certificates of registered sectional title in the prescribed form in respect of each section and its undivided share in the common property, made out in favour of the developer;

(fA) …

(Para (fA) inserted by s 3(b) of Act no 7 of 1992 and deleted by s 7 (c) of Act no 44 of 1997)
(fB) the certificate or certificates of real right in respect of any right which has or have been reserved by him or her in terms of section 25(1);
(Para (fB) inserted by s 3(b) of Act no 11 of 2010)
(fC) the certificate or certificates of real right in respect of any right of exclusive use if a condition as contemplated in section 27(1), has been imposed; and
(Para (fC) inserted by s 3(b) of Act no 11 of 2010)

(g) such other documents and particulars as may be prescribed.

12 Registration of sectional plans and opening of sectional title registers
(1) When the requirements of this Act and any other relevant law have been complied with, the registrar shall-

(a) register the sectional plan and allot a distinctive number to it;
(b) open a sectional title register in respect of the land and building or buildings thereon in the manner prescribed;
(c) keep by means of a computer or in any other manner or by means of a computer and in any other manner, such registers containing such particulars as are necessary for the purpose of carrying out the provisions of this Act or any other law and of maintaining an efficient system of registration calculated to afford security of title and ready reference to any registered deed;
(d) simultaneously with the opening of the sectional title register, issue to the developer in the prescribed form a certificate of registered sectional title in respect of each section and its undivided share in the common property, subject to any mortgage bond registered against the title deed of the land;
(e) issue to the developer, in the prescribed form, a certificate or certificates of real right in respect of any reservation made by him in terms of section 25 (1), subject to any mortgage bond registered against the title deed of the land;
(Para (e) amended by s.4 of Act No 11 of 2010)
(f) issue to the developer, in the prescribed form, a certificate or certificates 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
(Para (f) substituted by s. 6 of Act No 63 of 1991 and amended by s.4 of Act No 11 of 2010))
(g) make the necessary endorsements on the title deed, any mortgage bond or other document, or in his records.

(2) The registrar shall notify the Surveyor-General and the local authority of the registration of the sectional plan and furnish the local authority with a copy thereof.

13 Effect of registration of sectional plans
(1) Upon the registration of a sectional plan the building or buildings and the land shown thereon shall, subject to the provisions of this Act, be deemed to be divided into sections and common property as shown on the sectional plan.

(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 be deemed to be part of the sectional title deed, and an owner's title to his or her section and his or her 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 a developer in terms of section 11 (2).
(Sub-s (2) substituted by s.7 of Act No 63 of 1991 and amended by s.8 of Act No 44 of 1997)

(3) Upon the registration of a sectional plan, any mortgage bond, lease, other real right or condition then registered against or affecting the land shown on the sectional plan, shall be deemed to be converted into a bond, lease, other real right or condition registered against or affecting the sections and common property shown on the sectional plan.

14 Amendment and cancellation of sectional plans
(1) The Surveyor-General may require a land surveyor or architect who has prepared a registered sectional plan to alter or amend, or the developer or the body corporate to cause to be altered or amended, any registered sectional plan bound to be incorrect, or to substitute another sectional plan for the incorrect sectional plan.

(2) The body corporate may recover the costs incurred as a result of an alteration or amendment to a sectional plan, or the substitution thereof, in terms of subsection (1), from the developer, land surveyor or architect concerned.

(3) If in the opinion of the Surveyor-General any person could be prejudiced by an incorrect sectional plan, he shall advise the registrar as to which sections are affected by any such defect in question, and thereafter no transfer of such section and its undivided share in the common property or the registration of a real right therein shall be registered until the defect in the sectional plan has been rectified, unless the registrar is satisfied that the delay in causing the defective sectional plan to be rectified will cause undue hardship and the person in whose favour transfer of the section and its undivided share in the common property or of a real right therein is to be registered, consents in writing to the transfer or other registration being effected prior to the rectification of the defect.

(4) The formalities for the alteration, amendment or substitution of a sectional plan in terms of subsection (1), shall be as prescribed.

(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 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.
(Sub-s (5) substituted by s.8 of Act No 63 of 1991)

(6) The registrar may on application by a developer, which application shall be accompanied by a certificate by a conveyancer in which he certifies-

(a) that all the 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
(c) that no unit or 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.
(Sub-s (6) substituted by s.4(a) of Act No 7 of 1992)

(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 still applicable to or in respect of such land.
(Sub-s (7) substituted by s.4(b) of Act No 7 of 1992)

(8) A registered sectional plan shall, subject to the provisions of subsection (6) and sections 17 (6), 48 and 49, only be cancelled by an order of the Court, and the registrar shall give effect to any such cancellation by making the necessary endorsements and entries in his or her records in the prescribed manner, and shall notify the Surveyor-General, who shall cancel the original sectional plan and the deeds office copy thereof.
(Sub-s (8) amended by s.5 of Act No 11 of 2010 and by s.3 of Act No 33 of 2013)

(9) The registrar shall notify the local authority of the cancellation of the registration of a sectional plan.

PART III
REGISTRATION AND COMMON PROPERTY

15 Preparation of deeds by conveyancer

(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.
(Sub-s (1) substituted by Proclamation No R9 of 1997)

(2) ….
(S 15 substituted by s 9 of Act No 63 of 1991. Sub-s (2) deleted by s 16 of Act No 170 of 1993)

15A Proof of certain facts in connection with deeds and documents by means of certain certificates

(1) A conveyancer or any other person who is authorised thereto by or under any law, 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.
(Sub-s (1) substituted by s 9 (a) of Act No 44 of 1997)

(2) ...
(Sub-s (2) deleted by s 9 (b) of Act No 44 of 1997)

(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 aforegoing 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.
(S 15A inserted by s 10 of Act No 63 of 1991)

15B Registration of transfer of ownership and other rights

(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 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 that as at date of registration-

(i) (aa) if a body corporate is deemed to be established in terms of section 2(1) of the Sectional Title Schemes Management Act, 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
(Para (aa) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)
bb) if a body corporate is not deemed to be established, no moneys are payable;

(ii) 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 or her option in terms of section 25 (15) and that he or she has elected not to annul the alienation on the ground of the said defect;
(Para (a) substituted by s 10(a) of Act No 44 of 1997)

(b) a clearance certificate from the local authority that all rates and moneys due to such local authority under any law in respect of the land and buildings of the scheme have been paid if-

(i) provision is made by law for the separate rating of units; or
(ii) the transfer will result in the establishment of a body corporate in terms of section 2 of the Sectional Title Schemes Management Act;
(Para (b) substituted by s 10(a) of Act No 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(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) (a) Any person who is –

(i) the joint owner of a unit; or
(ii) the joint holder of a right to an exclusive use area; or
(iii) the joint holder of a right referred to in section 25(1).

held by such person and one or more other persons under one sectional title deed, certificate of real right or notarial deed of cession, as the case may be, 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 or her undivided share in such unit, right to an exclusive use area or right referred to in section 25(1)

(b) No transfer or cession of a fraction of an undivided share-

(i) in a unit; or

(ii) right to an exclusive use area; or

(iii) right referred to in section 25 (1),

and no hypothecation or lease of the whole or fraction of such undivided share shall be registered in a deeds registry, unless a certificate of registered sectional title or certificate of real right in respect of such undivided share is produced to the registrar.

(Sub-s (5) substituted by s 2 of Act No 6 of 2006)

(5A) Subsection (5) shall apply, with the necessary changes, to any person who is the owner of a unit or the owner of a share in such a unit and who contemplates obtaining a certificate of registered sectional title of any fraction of his or her undivided share in such unit.
(Sub-s (5A) inserted by s 6 of Act No 11 of 2010)

(6) ….
(Sub-s (6) deleted by s 10(b) of Act No 44 of 1997)

(7) A certificate of registered sectional title mentioned in subsection (5A) may be obtained upon written application in the prescribed form by the owner to the registrar
(Sub-s (7) added by s.4 of Act No 33 of 2013)

(8) An application under subsection (7) shall be accompanied by –

(a) the sectional title deed of the unit;

(b) any sectional mortgage bond registered over the unit or over any registered real rights over the unit;

© any title deeds of registered real rights over the unit; and

(d) the certificate of registered sectional title in the prescribed form
(Sub-s (8) added by s.4 of Act No 33 of 2013)

(9) Before issuing a certificate contemplated in subsection (7), the registrar must make upon the deeds and bonds as referred to in subsection (8)(a) to (c), and endorsement to the effect that a certificate of registered sectional title has been substituted for the said sectional title deed in respect of the share in question.
(Sub-s (9) added by s.4 of Act No 33 of 2013)

(10) Subject to subsection (9), the registrar must further make such entries as are necessary to give effect to this section and must, if the unit is mortgaged, endorse that fact upon the certificate.
(Sub-s (10) added by s.4 of Act No 33 of 2013)

(11) The provisions of subsections (8) to (10) apply, with the necessary changes, to an application for a certificate of registered sectional title or a certificate of real right as contemplated in subsection 5(a) thereof.
(Sub-s (11) added by s.4 of Act No 33 of 2013)

(S 15B inserted by s 10 of Act No 63 of 1991)

16 Ownership of common property
(1) The common property shall be owned by owners of sections jointly in undivided shares proportionate to the quotas of their respective sections as specified on the relevant sectional plan.

(2) A sectional title deed in respect of a section shall, in a separate paragraph, describe the undivided share in the common property of the owner of the section as an undivided share in the common property apportioned to the section in accordance with the quota of the section.

(3) A section and its undivided share in the common property shall together be deemed to be one unit, and no section shall be disposed of or be otherwise dealt with apart from its appurtenant undivided share in the common property nor, subject to section 17, shall an undivided share in the common property be disposed of or be otherwise dealt with apart from the section to which it is appurtenant.

(4) Any insurance of a section shall be deemed also to insure the undivided share in the common property of the owner of the section, even if no express reference is made to such share.

17 Alienation and letting of common property
(1) The owners and holders of a right of extension contemplated in section 25 may if authorized in terms of section 5(1)(a) of the Sectional Title Schemes Management Act direct the body corporate on their behalf to alienate common property or any part thereof, or to let common property or any part thereof under a lease, and thereupon the body corporate shall, notwithstanding any provisions of section 20 of the Deeds Registries Act, but subject to compliance with any law relating to the subdivision of land or to the letting of a part of land, as the case may be, have power to deal with such common property or such part thereof in accordance with the direction, and to execute any deed required for the purpose: Provided that if the whole of the right referred to in section 25 or section 60 (1) (b) is affected by the alienation of common property, such right shall be cancelled

by the registrar with the consent of the holder thereof on submission of the title to the right.
(Sub-s (1) substituted by s 11(a) of Act No 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) Any transaction referred to in subsection (1) shall be accompanied by a copy of the authorization concerned, certified by two trustees of the body corporate: Provided that where the transaction in question requires to be notarially executed, such authorisation so certified shall be produced to the notary public concerned and be retained by him or her in his or her protocol.
(Sub-s (2) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3) The registrar shall-

(a) register the transfer of land comprised in the common property, and thereupon the land shall revert to the land register and the registrar shall make an appropriate endorsement and entry on such title deed and in his or her records to give effect thereto: Provided that if a portion only of the land comprised in the common property and on which no section or part of a section is erected, is so transferred, no endorsement thereof shall be made on the sectional title deeds of the owners of units: Provided further that in such a case where a portion only of the land comprised in the common property is transferred, a diagram of such portion approved by the Surveyor- General in terms of the Land Survey Act, 1997 (Act 8 of 1997), shall be annexed to the said title deed;
(b) notify the Surveyor-General and local authority of any reversion of any land to the land register under paragraph (a), and upon receipt of such notification the Surveyor-General shall make an appropriate endorsement on the original sectional plan and the deeds registry copy thereof; and
(c) register a notarial lease of land comprising common property by making an appropriate endorsement against the schedule of conditions referred to in section 11 (3) (b), and no endorsement thereof shall be made on the sectional title deeds of the units: Provided that where a lease is registered over a portion only of the land comprised in the common property, a diagram of such portion approved in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), shall be annexed to the deed of lease.
(Sub-s (3) amended by s 11 of Act No 63 of 1991 and substituted by s 11 (b) of Act No 44 of 1997)

(4) (a) Where, pursuant to subsection (1), it is sought to alienate a portion of the common property on which a section is erected, the registrar shall not register the transfer unless the registration of the section in question has been cancelled with the written consent of the owner.
(b) Where pursuant to subsection (1) it is sought to let land which forms part of the common property or a portion thereof on which a section or part of a section is erected, the registrar shall not register the lease, unless it is

made subject to any right which the owner of the section or part of the section may have.
(c) When the registration of a section is cancelled under paragraph (a), the quota of the section shall lapse and the quotas of the remaining sections shall be proportionately adjusted.
(d) The registrar shall notify the Surveyor-General and the local authority whenever the registration of a section has been cancelled under paragraph (a), and upon receipt of such notification the Surveyor-General shall effect the necessary amendments to the original sectional plan, the deeds registry copy of the sectional plan and the schedule thereto specifying the quota of each section.
(Sub-s (4) substituted by s 11(c) of Act No 44 of 1997)

(4A) (a) Where part of a section is erected on a portion of the common property the unaffected part or parts of the section in the scheme shall be substituted in accordance with an amended participation quota schedule, which shall be referred to the Surveyor-General for approval
(b) The Surveyor-General shall notify the registrar of a change or amendment of a sectional plan in terms of paragraph (a) which affects the description or extent of a section, and thereupon the registrar shall register the transfer of the part of the land included in the scheme.
(Sub-s (4A)(b) amended by s.5(a) of Act No 33 of 2013)
(bA) Registration of the transfer under paragraph (b) shall be effected upon written consent of the owner of the section and, where applicable, holders of any registered real rights over the section: Provided that the registrar shall not register the transfer of the common property unless the sectional title deed of the affected section and, where applicable, the title deeds of the holders of any registered real rights over the section is endorsed with the new extent as reflected in the amended participation quota schedule.
(Sub-s (4A)(bA) added by s.5(b) of Act No 33 of 2013)

(c) the registrar shall notify the Surveyor-General and the local authority whenever an endorsement has been made in terms of paragraph (b), and on receipt of such notice the Surveyor- General shall make the necessary amendments on the original sectional plan, the deeds registry copy of the sectional plan and the schedule thereto specifying the quota of each section.
(Sub-s (4A) inserted by s 11(d) of Act No 44 of 1997)

(4B) (a) Where in terms of subsection (1) it is sought to alienate a portion of land on which an exclusive use area or part thereof is registered, the registrar shall not register the transfer, unless the registration of the exclusive use area or part thereof has been cancelled with the written consent of the holder.

(b) The registrar shall notify the Surveyor-General and the local authority when the registration of an exclusive use area or part thereof has been cancelled in terms of paragraph (a), and on receipt of such a notice the Surveyor-General shall make the necessary amendments on the original sectional plan and on the deeds registry copy of the sectional plan.
(Sub-s (4B) inserted by s 11(d) of Act No 44 of 1997)

(4C) The provisions of subsection (4B) shall apply with the necessary changes where, in terms of subsection (1), it is sought to alienate a portion of land on which a real right of extension in terms of section 25 or any part of such right is registered.
(Sub-s (4C) inserted by s.5© of Act No 33 of 2013)

(5) When the whole of the land comprised in the common property shown on the sectional plan is transferred by the body corporate pursuant to this section, the sectional title deeds of the owners of units, the title deeds of the holders of any registered real rights in the units, the title deeds of the holders of exclusive use areas and the title deeds of the holders of any registered real right over the exclusive use areas, shall be surrendered to the registrar for cancellation, and the title deed of any other registered real right in the land or exclusive use area, together with the consent of the holder of such right, shall be surrendered to the registrar for endorsement and the registrar shall close the sectional title register and notify the Surveyor-General and the local authority that the sectional title register has been closed.
(Sub-s (5) substituted by s 11(e) of Act No 44 of 1997 and amended by s5(d) of Act 33 of 2013)

(6) Upon receipt of the notification referred to in subsection (5), the Surveyor-General shall cancel the original sectional plan and the deeds registry copy of the sectional plan.
(S 17 amended by s 4 of Act No 29 of 2003)

18 Transfer of mortgaged unit, undivided share, common property or land, and cession of mortgaged lease or real right
The provisions of sections 56 and 57 of the Deeds Registries Act shall apply with the necessary changes to the transfer of any mortgaged unit or undivided share in a unit, the cession of any mortgaged lease of a unit or undivided share in a unit, the cession of any mortgaged real right in or over a unit or an undivided share in a unit, the cession of any mortgaged real right under sections 25 and 27 of this Act or an undivided share therein, and the transfer under section 17 of this Act of any mortgaged common property or land or an undivided share therein.
(S 18 amended by s.6 of Act No 33 of 2013)

19 Expropriation of common property or rights therein
(1) …
(Sub-s 1 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) …
(Sub-s 2 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3) The provisions of section 17 (3) (a) and (b) of this Act and sections 31 (4) and 32 (4) of the Deeds Registries Act shall apply *mutatis mutandis* to a transfer pursuant to an expropriation of land or a servitude or other real right in land comprising common property as contemplated in section 12 of the Sectional Title Schemes Management Act, Act 8 of 2011.
(Sub-s (3) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) When land comprising common property on which a section or a part of a section is erected is transferred pursuant to an expropriation, the registrar shall cancel the registration of such section or part of such section in his or her records and shall endorse the deeds registry copy of the relevant title and any bond, lease or other registered document affected, to reflect the cancellation of the section or part of such section, and shall in like manner endorse the owner's copy of the title deed or the holder's copy of the bond, lease or other document whenever subsequently lodged at the deeds registry for any purpose.
(Subsection (4) amended by s.7(a) of Act No 33 of 2013)

(5) The provisions of section 17 (4)(a), (c), and (d), (4A), (4B) and (5), shall apply with the necessary changes to the cancellation of a section or part of such section in terms of subsection (4).
(Sub-s (5) substituted by s 12 of Act No 44 of 1997 and amended by s.7(b) of Act 33 of 2013)

PART IV
SUBDIVISION, CONSOLIDATION AND EXTENSION OF SECTIONS

20 .....

(S 20 repealed by s 13 of Act No 44 of 1997)

21 Approval of plan of subdivision or consolidation by Surveyor-General
(1) If an owner of a section proposes to subdivide his or her section or to consolidate two or more sections registered in his or her name, he or she shall if authorized in terms of Section 7(2) of the Sectional Title Schemes Management Act, Act 8 of 2011, cause the land surveyor or architect concerned to submit the

draft sectional plan of subdivision or consolidation, as the case may be, to the Surveyor-General for approval.
(Sub-s (1) substituted by s 14(a) of Act No 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) The submission of the draft sectional plan of subdivision or consolidation to the Surveyor- General shall be accompanied by-

(a) the documents referred to in section 7 (2), suitably adjusted;
(Para (a) substituted by s 14(b) of Act No 44 of 1997)
(b) in the case of a subdivision, a schedule specifying, in the manner prescribed, the apportionment of the participation quota of the section between the new sections created;
(c) in the case of a consolidation, a schedule specifying, in the manner prescribed, the participation quota of the new section created, being the aggregate of the quotas of the sections that are to be consolidated.

(3) The provisions of section 7 (3) and (4) shall apply *mutatis mutandis* to the preparation and submission of a draft sectional plan of subdivision or consolidation to the Surveyor- General, and to the approval of such plan by him.

22 Registration of subdivision of section
(1) An owner may, after approval of a sectional plan of subdivision of a section, apply to the registrar of the deeds registry in which the section is registered, to register the sectional plan of subdivision.

(2) An application under subsection (1) shall be accompanied by-

(a) two copies of the sectional plan of subdivision;
(Para (a) substituted by s 12(a) of Act No 63 of 1991 and by s 15 of Act No 44 of 1997)
(b) the sectional title deed in respect of the section to be subdivided;
(Para (b) substituted by s 12(a) of Act No 63 of 1991)
(c) any sectional mortgage bond to which the section may be subject, together with the consent of the mortgagee to the cancellation of the bond or to the release of the section from the bond or to the subdivision and substitution of the new sections in lieu of such section as security under the bond;
(d) certificates of registered sectional title in the prescribed form for each of the new sections and their undivided shares in the common property created by the subdivision, made out in favour of the owner or, in the case of a partition, in favour of the persons entitled thereto in terms of the partition agreement;
(e) the partition agreement (if any), if the section is owned by more than one owner; and
(f) such other documents and particulars as may be prescribed.

(3) When the requirements of this section and 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 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.
(Sub-s (3) substituted by s 12(b) of Act No 63 of 1991)

(4) Upon registration of the sectional plan of subdivision, the portions in question shall be deemed to be separated from one another and shall each be deemed to be a separate section.

(5) Simultaneously with the registration of the sectional plan of subdivision the registrar shall, in lieu of the sectional title deed referred to in subsection (2) (b), issue the certificates of registered sectional title referred to in subsection (2) (d), and make such endorsements on the superseded and newly issued certificates of registered sectional title, any sectional mortgage bond, lease or other deed embodying any other real right registered against the section at the time of subdivision, and entries in the deeds registry records, as he may deem necessary to give effect to the provisions of this section.

(6) A sectional plan of subdivision shall upon the registration thereof be deemed to be incorporated in the sectional plan registered in terms of section 12 (1) (a), and the provisions of section 13 (2) shall apply *mutatis mutandis* to such plan and the certificates of registered sectional title issued in terms of subsection (5).

23 Registration of consolidation of sections
(1) An owner may, after approval of a sectional plan of consolidation of two or more sections, apply to the registrar of the deeds registry in which the sections are registered, to register the sectional plan of consolidation.

(2) An application under subsection (1) shall be accompanied by-
(a) two copies of the sectional plan of consolidation;
(Para (a) substituted by s 13(a) of Act No 63 of 1991 and by s 16 of Act No 44 of 1997)
(b) the sectional title deeds in respect of the sections to be consolidated;
(Para (b) substituted by s 13(a) of Act No 63 of 1991)
(c) any sectional mortgage bond registered against the sections, together with the consent of the mortgagee to the registration of the sectional plan of consolidation;
(d) a certificate of registered sectional title in the prescribed form in respect of the new section reflected on the sectional plan of consolidation, and its undivided share in the common property, made out in favour of the owner of the sections to be consolidated; and
(e) such other documents and particulars as may be prescribed.

(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 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.
(Sub-s (3) substituted by s 13(b) of Act No 63 of 1991)

(4) Upon registration of the sectional plan of consolidation, the sections in question shall be deemed to be consolidated into a single section as depicted on the sectional plan of consolidation.

(5) Simultaneously with the registration of the sectional plan of consolidation, the registrar shall, in lieu of the 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*.
(Sub-s (5) substituted by s 13(c) of Act No 63 of 1991)

(6) The provisions of section 40 (5) of the Deeds Registries Act shall apply *mutatis mutandis* with reference to any mortgage bond registered over one or more component sections of the section represented on the sectional plan of consolidation.

24 Extension of sections
(1) ...

(2) ...
(Sub-ss (1) and (2) deleted by s 17(a) of Act No 44 of 1997)

(3) If an owner of a section proposes to extend the boundaries or floor area of his or her section, he or she shall if authorized in terms of Section 5(1)(h) of the Sectional Title Schemes Management Act, Act 8 of 2011, cause the land surveyor or architect concerned to submit a draft sectional plan of the extension to the Surveyor-General for approval.
(Sub-s (3) substituted by s 17(b) of Act No 44 of 1997 and by s 5(a) of Act No 29 of 2003 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) The submission of the draft sectional plan of extension of a section to the Surveyor-General, shall be accompanied by-

(a) the documents referred to in section 7 (2), suitably adjusted; and
(Para (a) substituted by s 17(c) of Act No 44 of 1997)

(b) in the case of the floor area of the section in question being increased by the extension, a revised schedule, in substitution for the schedule referred to in section 5(3)(g), reflecting the participation quotas of all the sections as modified after taking the increased floor area of the section in question into account.
(Para (b) amended by s 7(a) of Act No 11 of 2010)

(5) The provisions of section 7 (3) and (4) shall apply *mutatis mutandis* to the preparation and submission of a draft sectional plan of extension of a section to the Surveyor-General, and to the approval of such plan by him.

(6) An application to the registrar for the registration of a sectional plan of extension of a section, shall be accompanied by-

(a) two copies of the sectional plan of extension of a section;
(Para (a) substituted by s 14(a) of Act No 63 of 1991)
(b)...
(Para (b) deleted by s 5(b) of Act No 29 of 2003)
(c) the sectional title deed in respect of the section to be extended;
(Para (c) substituted by s 14(b) of Act No 63 of 1991)
(d) any sectional mortgage bond to which the section may be subject, together with

(i) a certificate by a land surveyor or architect stating that there is not a deviation of more than 10 per cent in the participation quota of the relevant section as a result of the extension; or
(ii) if there is a deviation of more than 10 per cent, a certificate by a conveyancer stating that the mortgagee of each section in the scheme has consented to the registration of the sectional plan of extension of that section; and

(Para (d) substituted by s 17(d) of Act No 44 of 1997, by s 2 of Act No 7 of 2005 and by S7(b) of Act No 11 of 2010)
(e) such other documents and particulars as may be prescribed.

(6A) The applicant must, if there is a deviation of more than 10 per cent as a result of such extension, send a notice by registered post to each mortgagee or where a mortgagee is a financial institution, to its headquarters, giving details of-

(a) the mortgage bond;
(b) the mortgagor and the reference number of the mortgage loan (if any);
(c) the proposed extension in relation to its size and location; and
(d) the impact on the security of such mortgagee as to the diminution of the participation quota allocated to the mortgage unit.

Provided that if a response to the notice is not received by the applicant within 30 days of the date of the posting of the notice by registered post, it shall be deemed that the mortgagee does not have any objection to the proposed extension and that the mortgagee consents thereto.
(Sub-s (6A) inserted by s 7(c) of Act No 11 of 2010)

(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 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.
(Sub-s (7) substituted by s 14(c) of Act No 63 of 1991)

(8) A sectional plan of extension of a section shall upon the registration thereof be deemed to be incorporated in the sectional plan registered in terms of section 12 (1) (a), and the provisions of section 13 (2) shall apply *mutatis mutandis* to such plan.

PART V
EXTENSION OF SCHEMES

25 Extension of schemes by addition of sections and exclusive use areas or by addition of exclusive use areas only
(Heading amended by S 8(a) of Act No 11 of 2010)
(1) A developer may, subject to the provisions of section 4 (2), in his or her application for the registration of a sectional plan, reserve, in a condition imposed in terms of section 11 (2), the right to erect, complete or include from time to time, but within a period stipulated in such condition or such extended period as may be agreed upon (by unanimous resolution of the body corporate and with the consent of the bondholders existing on the date of taking of the unanimous resolution, which resolution and consent must be obtained by the notary and filed on his protocol) prior to the expiry of the stipulated period, by way of a bilateral notarial deed, for his or her personal account-

(a) a building or buildings;
(b) a horizontal extension of an existing building;
(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 sections, or to delineate exclusive use areas on or in specific parts of the land and buildings in terms of section 5(3)(f) and to confer the right of exclusive use over such areas upon the owner or owners of one or more section.
(Sub-s (1) substituted by s 15(a) of Act No 63 of 1991 and by S 8(b) of Act No 11 of 2010 and amended by s.8(a) of Act 33 of 2013))

(2) In the event of a reservation in terms of subsection (1), the application for the registration of the sectional plan shall, in addition to the documents referred to in section 11 (3), be accompanied by-

(a) a plan to scale of the building or buildings on which-
(Sub-s 2 (a) amended by s 8(c) of Act No 11 of 2010)

(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;
(Para (a) substituted by s 15(b) of Act No 63 of 1991)

(b) a plan to scale showing the manner in which the building or buildings are to be divided into a section or sections and exclusive use areas or the manner in which the common property is to be made subject to the rights of exclusive use areas only;
(Para (b) substituted by s 15(b) of Act No 63 of 1991 and amended by s 8(d) of Act No 11 of 2010)

(c) a schedule indicating the estimated participation quotas of all the sections in the scheme after such section or sections have been added to the scheme;

(d) particulars of any substantial difference between the materials to be used in the construction of the building or buildings and those used in the construction of the existing building or buildings;
(Sub-s 2(d) amended by S8(d) of Act No 11 of 2010)

(e) …
(Sub-s 2(e) deleted by S8(e) of Act No 11 of 2010)

(f) the certificate of real right which is to be issued in terms of section 12 (1) (e); and
(Para (f) substituted by s 15(c) of Act No 63 of 1991)

(g) such other documents and particulars as may be prescribed.

(3)…
(Sub-s (3) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) A right reserved in terms of subsection (1) vested in terms of subsection (6), or registered in terms of subsection (6A) and in respect of which a certificate of real right has been issued-
(Sub-s 4 amended by s8(b) of Act No 33 of 2013)

(a) shall for all purposes be deemed to be a right to immovable property which admits of being mortgaged; and

(b) may be transferred by the registration of a notarial deed of cession in respect of the whole, a portion or a share in such right: Provided that in

the case of a cession affecting only a portion of the land comprising the scheme only such portion shall be identified to the satisfaction of the Surveyor-General.
(Para (b) substituted by s 18(a) of Act No 44 of 1997)

(4A) The registrar may not register a cession of real right of extension or a portion of an undivided share therein, unless a certificate by a conveyancer is produced to the registrar confirming that, as at the date of registration:

(a) if a body corporate is deemed to be established in terms of section 36(1), the body corporate has certified that all moneys due to the body corporate by the cedent in respect of the said real right have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof, or
(b) if a body corporate is not deemed to be established, no moneys are payable.

(Sub-s (4A) inserted by s8(g) of Act No 11 of 2010)

(5) A right reserved in terms of subsection (1) may be exercised by the developer or his or her successor in title thereto, even though the developer or his or her successor in title, as the case may be, has no other interest in the common property, by the addition of rights of exclusive use; Provided that the rights of exclusive use must be ceded within 12 months after their creation, either to the body corporate of the scheme or to one or more registered owners of a section or sections in the scheme.
(Sub-s 5 amended by s8(h) of Act No 11 of 2010)

(5A) (a) If the right reserved in terms of subsection (1) is exercised, the developer or his or her successor in title shall immediately after completion of the relevant unit apply for the registration of the relevant plan of extension and the inclusion of such unit in the relevant sectional title register .

(b) If the developer or his or her successor in title fails to take such steps and fails to register the relevant plan of extension within 90 days of completion for occupation of the unit, the developer or his or her successor in title shall be liable to the body corporate for the amounts payable in terms of section 3(1)(b) of the Sectional Title Schemes Management Act, Act 8 of 2011 as if the unit had been included in the relevant sectional title register on the date of completion .
(Sub-s (b) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(c) The certificate contemplated in section 15B (3) (a) (i) (aa) shall not be issued unless the amounts in question are paid to the body corporate.
(Sub-s (5A) inserted by s 3 of Act No 7 of 2005)

(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 including the land contemplated in section 26, shall vest in the body corporate which shall be entitled, subject to this section, section 5(1)(b) of the Sectional Title Schemes Management Act, Act 8 of 2011 and after compliance with the necessary changes, 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.
(Sub-s (6) substituted by s 15(d) of Act No 63 of 1991 and by s 18(b) of Act No 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6A) If no reservation has been made by a developer in terms of subsection (1) and the body corporate has not yet been establishedin terms of Section 2 of the Sectional Title Schemes Management Act, Act 8 of 2011, the registrar may issue a certificate of real right of extension as contemplated in section 12 (1) (e) on application by the developer accompanied by the sectional mortgage bond and written consent of any bondholder and such of the documents contemplated in subsection (2) as are applicable.
(Sub-s (6A) inserted by s 18(c) of Act No 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6B) Upon compliance with subsection (6A) this Act shall apply with the necessary changes to such real right as if it had originally formed part of the application for the opening of the sectional title register and such certificate of real right shall be issued subject to any sectional mortgage bond against the land.
(Sub-s (6B) inserted by s 18(c) of Act No 44 of 1997)

(7) …..
(Sub-s (7) substituted by s 6 of Act No 7 of 1992 and deleted by s 18(d) of Act No 44 of 1997)

(8) The provisions of sections 5, 6 and 7 shall apply *mutatis mutandis* to the submission of a draft sectional plan of extension to the Surveyor- General in terms of this section and the approval thereof by him: Provided that the draft sectional plan of extension submitted to the Surveyor- General shall be accompanied by a revised schedule specifying the participation quota of each section in the building or buildings depicted on the sectional plan and the sectional plan of extension, calculated in accordance with the provisions of section 32 as if the plan of extension formed part of the sectional plan when it was registered, and the Surveyor-General shall file such revised schedule with the sectional plan in lieu of the schedule referred to in section 7 (2) (b).
(9) A developer or his or her successor in title to a right reserved in terms of subsection (1), or the body corporate in terms of subsection (6), as the case may be, may, after approval of a sectional plan of extension by the Surveyor-General in terms of this section, apply to the registrar for the registration of such plan of

extension and the inclusion of the additional sections and exclusive use areas, or the inclusion of exclusive use areas only in the relevant sectional title register.
(Sub-s 9 amended by S 8(i) of Act No 11 of 2010)

(10) An application under subsection (9) shall be accompanied by-

(a)two copies of the sectional plan of extension;
(Para (a) substituted by s.15(e) of Act No 63 of 1991)
(b) …..
(Para (b) deleted by s.18(e) of Act No 44 of 1997)
(c)the certificate of real right by which the reservation in terms of subsection (1) or (6) is held, together with any sectional mortgage bond registered against the certificate of real right and the consent of the mortgagee to the substitution of the sections depicted on the sectional plan of extension and their undivided shares in the common property, as security in lieu of the real right held under the certificate of real right mortgaged under the bond;
(d)certificates of registered sectional title in the prescribed form in favour of the developer, his or her successor in title or the body corporate, as the case may be, in respect of each section and a certificate or certificates of real right in respect of the rights of exclusive use reflected on the plan of extension;
(Para (d) amended by s.8(j) of Act No 11 of 2010 and by s8(c) of Act 33 of 2013)

(dA) any mortgage bond which may be affected by the right, together with the consent of the mortgagee to the registration of the extension of the scheme and the endorsement of such bond to the effect that it is attached to—

(i) each section shown on the sectional plan and its undivided share in the common property;
(ii) the certificate or certificates of real right in respect of a right of exclusive use as contemplated by subsection (10)(d) and section 27 (1); and
(Para (dA)(ii) amended by s.8(k) of Act No 11 of 2010 and s.8(d) of Act No 33 of 2013))

(iii) if applicable, the certificate or certificates of real right in respect of the remainder of the right reserved in terms of subsection (1);and
(Para (dA)(iii) amended by s.8(d) of Act No 33 of 2013))

(e) …..
(Para. (e) deleted by s.15(f) of Act No. 63 of 1991)
(f)such other documents and particulars as may be prescribed.

(11) When the requirements of this section and of any other law have been complied with, the registrar shall-

(a)register the sectional plan of extension;
(b)extend the sectional title register to include the sections and exclusive use areas, as the case may be, depicted on the plan of extension;
(Para. (b) amended by s.8(l) of Act No. 11 of 2010)
(c)simultaneously with the registration of the sectional plan of extension issue to the developer, his or her 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 a certificate or certificates of real right in respect of exclusive use, subject to any mortgage bond registered against the title deed of the right of extension, 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
(Para. (c) substituted by s.15(g) of Act No. 63 of 1991, by s. 6(c) of Act No. 29 of 2003 and by s8(l) of Act No 11 of 2010 and amended by s.8(e) of Act 33 of 2013)
(d)make such entries in his or her records and endorsements on the certificates of registered sectional title and certificates of real right in respect of such rights of exclusive use referred to in paragraph (c), any certificate of real right referred to in subsection (10) (c), and any sectional mortgage bond registered against the certificate of real right, as are necessary to give effect to this section.
(Para. (d) amended by s8(l) of Act No 11 of 2010)

(12) Upon registration of a sectional plan of extension referred to in subsection (11) (a)-

(a)the owners of sections in the building or buildings in the scheme that is being extended, the mortgagees of sectional mortgage bonds and the holders of any real rights registered over such sections, shall be divested of their share or interest in the common property to the extent that an undivided share in the common property is vested in the developer, his successor in title of the body corporate, as the case may be, by the issue of the certificates of registered sectional title referred to in subsection (11) (c);
(b)a sectional mortgage bond whereby a real right held by a certificate of real right referred to in subsection (10) (c) is mortgaged, shall be deemed to be a sectional mortgage bond over the sections depicted on the sectional plan of extension and their undivided share in the common property and registered against the certificates of sectional title issued in terms of subsection (11) (c); and
(c)the sectional plan of extension shall be deemed to be incorporated in the sectional plan registered in terms of section 12 (1) (a), and thereupon the provisions of section 13 (1) and (2) shall apply *mutatis mutandis*.

(13) A developer or his or her successor in title who exercises a reserved right referred to in subsection (1), or a body corporate exercising the right referred to in subsection (6), shall be obliged to erect and divide the building or buildings into sections and to delineate areas of the common property subject to rights of exclusive use strictly in accordance with the documents referred to in subsection (2), due regard being had to changed circumstances which would make strict compliance impracticable, and an owner of a unit in the scheme who is prejudiced by his or her failure to comply in this manner, may apply to the Court, whereupon the Court may order proper compliance with the terms of the reservation, or grant such other relief, including damages, as the Court may deem fit.
(Sub-s (13) amended by S 8(m) of Act No 11 of 2010)
(14) In all cases where a developer or a body corporate has a real right to extend a scheme as contemplated in this section, such right shall be disclosed in the deed of alienation to every purchaser of a section in the scheme concerned.

(15) (a) A deed of alienation in which a real right has not been disclosed as contemplated in subsection (14), shall be voidable at the option of the purchaser.
(b) After notice by any such purchaser to the seller that he or she annuls the alienation, the alienation shall be void, and thereupon the provisions of se ction 10 (5) shall apply with the necessary changes.
(S.25 amended by s. 6(a) of Act No.29 of 2003. Para. (b) substituted by s.6(d) of Act No. 29 of 2003)

26 Extension of schemes by addition of land to common property
(1) …
(Sub-s.(1) substituted by s.19(a) of Act No.44 of 1997 and by s. 3(a) of Act No. 6 of 2006 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) Land purchased or otherwise acquired by the body corporate in terms of Section 5(1)(d) of the Sectional Title Schemes Management Act, Act 8 of 2011 shall be deemed to be owned by the owners of the sections in the building concerned in the same proportion as their participation quota as reflected on the relevant sectional plan.
(Sub-s. (2) substituted by s. 3(b) of Act No. 6 of 2006 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3)…
(Sub-s. (3) deleted by s. 19(b) of Act No. 44 of 1997)

(4) The provisions of section 7 (2), (3) and (4) shall apply with the necessary changes to the preparation and submission to the Surveyor-General of a draft plan of extension of the common property, and the approval of such plan by him or her.

(Sub-s. (4) substituted by s. 19(c) of Act No. 44 of 1997)

(5) The registrar shall, upon the submission of the prescribed documents, 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 or her records as may be necessary to give effect thereto, and shall 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.
(Sub-s. (5) substituted by s. 16 of Act No. 63 of 1991 and by s. 7 of Act No 29 of 2003))

(6) The registrar shall not register a plan of extension in terms of this section if the additional land to be incorporated as common property is subject to a mortgage bond.

(7) Upon the registration of a plan of extension of the common property in terms of this section, such plan shall be deemed to be incorporated in the sectional plan registered in terms of section 12 (1) (a), and the land to which such sectional plan of extension relates shall be deemed to be incorporated as common property in such registered sectional plan.

PART VI
EXCLUSIVE USE OF COMMON PROPERTY AND SERVITUDES

27 Rights of exclusive use of parts of common property

(1) (a) If a part or parts of common property is or are delineated on a sectional plan for a specific purpose in terms of section 5 (3) (f), the developer must, when making application for the opening of a sectional title register and the registration of the sectional plan, impose a condition in terms of section 11 (2) in the schedule referred to in section 11 (3) (b), by which the right to the exclusive use of such part or parts of the common property delineated for this purpose on the sectional plan, is conferred upon the owner or owners of one or more of the sections.
(Para. (a) substituted by s. 8(a) of Act No. 29 of 2003 and s 9(a) of Act No 11 of 2010)

(b) A developer shall cede the right to the exclusive use of part or parts of the common property to the owner or owners of units in the scheme, by the registration of a unilateral notarial deed in their favour.
(Para. (b) amended by s. 17(a) of Act No. 63 of 1991 and substituted by s. 8(b) of Act No. 29 of 2003)

(c) If a developer ceases to be a member of the body corporate as contemplated in section 2(2) of the Sectional Title Schemes Management Act, Act 8 of 2011 any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond.
(Para. (c) inserted by s. 8(c) of Act No. 29 of 2003 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(d) If a right to the exclusive use of a part or parts of the common property vests in a body corporate in terms of paragraph (c), the body corporate shall, in the prescribed form—

(i) apply to the registrar for the issuing of a certificate or certificates of real right of exclusive use in its favour; and
(Para. (d)(i) amended by s. 9(b) of Act No. 33 of 2013)

(ii) submit a certificate of compliance with any law dealing with vesting.

(Para. (d) inserted by s. 8(c) of Act No. 29 of 2003)

(e) The registrar shall, after consideration of the application in paragraph (d), issue such certificate or cerificates in the prescribed form.
(Para. (e) inserted by s. 8(c) of Act No. 29 of 2003 and amended by s.9(b) of Act No 33 of 2013)

(1A)If no reservation was made by a developer in terms of subsection (1) and the body corporate has not yet been established in terms of Section 2(1) of the Sectional Title Schemes Management Act, Act 8 of 2011, the registrar may issue a certificate of real right in respect of a right of exclusive use as contemplated in section 12 (1) (f) on application by the developer accompanied by the sectional mortgage bond and the written consent of any bondholder.
(Sub-s. (1A) inserted by s. 20 of Act No. 44 of 1997 and amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(1B)Upon compliance with subsection (1A) this Act shall apply with the necessary changes to such real right as if it had originally formed part of the application for the opening of the sectional title register and such certificate or certificates of real right shall be issued subject to any sectional mortgage bond against the land.
(Sub-s. (1B) inserted by s. 20 of Act No. 44 of 1997 and amended by s.9© of Act No 33 of 2013)

(2) A body corporate may, subject to the provisions of section 5 (1) of this Act and Section 5(1)(d) of the Sectional Title Schemes Management Act, Act 8 of 2011, request an architect or land surveyor to apply to the Surveyor-General for the delineation on a sectional plan in the manner prescribed of a part or parts of the common property in terms of section 5 (3) (f) for the exclusive use by the

owner or owners of one or more sections: Provided that no such delineation shall be made on the sectional plan in terms of this subsection if such delineation will encroach upon a prior delineation on the sectional plan of a part of the common property for the exclusive use by one or more of the owners.
(Sub-s (2) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3) A right to the exclusive use of a part or parts of the common property delineated on the sectional plan in terms of subsection (2) shall be transerred to the owner or owners on whom such right has been conferred by the body corporate, by the registration of a notarial deed entered into by the parties and in which the body corporate shall represent the owners of all the sections as transferor.
(Sub-s (3) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) (a) 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 transfer his or her interest in such right to the owner of another section in the scheme by the registration by the registrar of a notarial deed of cession entered into by the parties,
(b) If an owner ceases to be a member of the body corporate in terms of Section 2(3) of the Sectional Title Schemes Management Act, Act 8 of 2011, any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond or registered real right.
(Sub-s. (4(b)) amended by s. 9(b) of Act No. 11 of 2010 and Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)
(c) If a right to the exclusive use of a part or parts of the common property vests in a body corporate in terms of paragraph (b), the body corporate shall, in the prescribed form—
(i) apply to the registrar for the issuing of a certificate or certificates of real right of exclusive use in its favour; and
(Sub-s. (4(c)(i) amended by s. 9(d) of Act No. 33 of 2013)

(ii) submit a certificate to the effect that the provisions of any law in connection with the vesting have been complied with.
(d)The registrar must issue such certificate or certificates in the prescribed form.
(Sub-s. (4)(d) amended by s.9(e) of Act No. 33 of 2013)
(Sub-s. (4) substituted by s.17(b) of Act No. 63 of 1991 and by s. 8(d) of Act No. 29 of 2003)

(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 exclusive use area and holder of a

registered real right be cancelled by the registration by the registrar of a notarial deed of cancellation entered into by holder of 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 scheme.
(Sub-s. (5) substituted by s. 17(b) of Act No. 63 of 1991 and Section 9 (c) of Act No 11 of 2010)

(6) A right to the exclusive use of a part of common property registered in favour of an owner of a section, shall for all purposes be deemed to be a right to urban urban immovable property over which a mortgage bond, lease contract or personal servitude of usufruct, *usus* or *habitatio* may be registered.
(Sub-s. (6) substituted by s. 4 of Act No. 7 of 2005 and s 9(d) of Act No 11 of 2010)

(7) (a) Any person who holds two or more rights to exclusive use areas or undivided shares by one title deed may, subject to the provisions prescribed, obtain a separate title deed in respect of one or more of the rights to exclusive use areas held therein.
(b) At least one of the exclusive use areas or shares shall remain held by such title deed.
(Sub-s. (7) added by s. 8(e) of Act No. 29 of 2003)

Rules regarding exclusive use areas
27A …
(S. 27A inserted by s.21 of Act No. 44 of 1997 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

28 Implied servitudes
(1) There shall be implied-
(a)in favour of each section-
(i)a servitude for the subjacent and lateral support of the section by the common property and by any other section capable of affording such support;
(ii)a servitude for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air and other services, including telephone, radio and television services, through or by means of any pipes, wires, cables or ducts existing on or under the land or in the building, to the extent to which such pipes, wires, cables or ducts are capable of being used in connection with the utilization of the section; and
(b)against each section-
(i)a servitude for the subjacent and lateral support of the common property and of any other section capable of enjoying such support;
(ii)the servitudes referred to in paragraph (a) (ii) through or by means of any pipes, wires, cables or ducts existing within such

section, in favour of the common property and in favour of any other section capable of enjoying such servitudes.

(2) The servitudes referred to in subsection (1)-

(a)shall be deemed to be incorporated in the title deeds of the owners affected thereby; and

(b)shall confer on the owners of sections the right, to be exercised by the body corporate, to have access to each section and the exclusive use areas from time to time during reasonable hours to the extent necessary to maintain, repair or renew any part of the building or any pipes, wires, cables or ducts therein, or for making emergency repairs therein necessary to prevent damage to the common property or any other section or sections.

29 Creation of servitudes

(1) The owners may if duly authorized in terms of Section 5(1)(g) of the Sectional Title Schemes Management Act, Act 8 of 2011 direct the body corporate-

(a)to execute on their behalf a servitude or restrictive agreement burdening the land shown on the relevant sectional plan;

(b)to accept on their behalf a servitude or restrictive agreement benefiting the said land.

(Sub-s (1) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) Every such servitude or agreement shall be embodied in a notarial deed and shall be registered by the registrar by noting such deed on the schedule of servitudes and conditions referred to in section 11 (3) (b) and on the title deeds of any party to such servitude or restrictive agreement whose title deeds are registered in the land register.

(3) If the land to be burdened by a servitude or restrictive agreement is hypothecated, the written consent of every mortgagee, existing on the date of execution of the notarial deed, to the registration of such servitude or restrictive agreement shall before such registration be obtained by the notary public and filed in his or her protocol.

(S. 29(3) amended by s.10 of Act No. 11 of 2010)

30 Ancillary servitudal rights

All ancillary rights and obligations reasonably necessary to make servitudes effective, shall apply in respect of servitudes implied or created under this Act.

31 Deeds Registries Act and implied servitudes

The provisions of the Deeds Registries Act shall not apply with reference to servitudes or restrictions as to user implied under this Act, and such servitudes and restrictions shall take effect and be enforceable immediately upon the establishment of the body corporate in terms of the Sectional Title Schemes Management Act, Act 8 of 2011.

(Section 31 amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

PART VII
PARTICIPATION QUOTAS AND DEVELOPERS

32 Participation quotas
(1) Subject to the provisions of section 48, in the case of a scheme for residential purposes only as defined in any applicable operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law, the participation quota of a section shall be a percentage expressed to four decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the section by the floor area, correct to the nearest square metre, of all the sections in the building or buildings comprised in the scheme.

(2) Subject to the provisions of section 48, in the case of a scheme other than a scheme referred to in subsection (1), the participation quota of a section shall be a percentage expressed to four decimal places, as determined by the developer: Provided that-

(a)where a scheme is partly residential as defined in any applicable operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law, the total of the quotas allocated by the developer to the residential sections shall be divided among them in proportion to a calculation of their quotas made in terms of subsection (1);
(b)where a developer alienates a unit in such a scheme before the sectional title register is opened, the total of the quotas allocated to the respective sections and the participation quota of that unit must be disclosed in the deed of alienation; and
(c)where such disclosure is not made, the deed of alienation shall be voidable at the option of the purchaser and that the provisions of section 25 (15) (b) shall *mutatis mutandis* apply in respect of any such alienation.

(3) The quota of a section shall determine the undivided share in the common property of the owner of the section
(Sub-s (3) replaced by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) …
(Sub-s (4) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(5) The specification in the schedule to a sectional plan of the quota of each section and of the total of the quotas of all the sections in the building or buildings

comprised in a scheme, shall for all purposes be deemed to be correct in the absence of proof to the contrary.

33 Sale or letting of sections
Nothing in this Act or any other law contained shall be construed as preventing a developer from selling certain sections in a building and letting other sections therein or from letting all sections therein.

34 Shares of developers in buildings and land
(1) The developer shall be the owner of any section in respect of which the ownership is not held by any other person, and the quota of such section or, if there is more than one such section, the total of the quotas of such sections, shall determine the share of the developer in the common property.

(2) When the ownership in every section is held by any person or persons other than the developer, the developer shall, subject to the provisions of section 25 (1), cease to have a share or interest in the common property.

(3) When a developer has in one transaction alienated the whole of his or her 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 means of a deed of transfer in the case of units and by means of a bilateral notarial deed of cession in the case of rights reserved under sections 25 and 27.
(Sub-s. (3) substituted by s. 18 of Act No.63 of 1991 and by s. 22 of Act No. 44 of 1997)

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

(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

(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

(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 2(1) of the Sectional Title Schemes Management Act, Act 8 of 2011, 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.

(Sub-s (b) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)
(Sub-s. (4) substituted by s.18 of Act No. 63 of 1991 and by s. 7 of Act No. 7 of 1992)

PART VIII
RULES AND BODIES CORPORATE

35 Rules
…
(Section 35 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

36 Bodies corporate
(1) When a unit is registered in the name of any person other than the developer, the registrar must issue a certificate in the prescribed form.
(Sub-s. (1) substituted by s.9 of Act No. 7 of 1992 and Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) The effect of the registration referred to in subsection (1) is the establishment of a body corporate for the scheme, in terms of the Sectional Title Schemes Management Act, Act 8 of 2011
(Sub-s. (2) substituted by s.9(a) of Act No. 7 of 1992 and amended by s. 4 of Act No. 6 of 2006 and substituted by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(3) The registrar must lodge a copy of the certificate referred to in subsection (1) with the chief ombud;
(Sub-s. (3) substituted by s.9(a) of Act No. 7 of 1992 and Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(4) …
(Sub-s (4) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011

(5) …
(Sub-s (5) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6) …
(Para. (e) added by s.9 (b) of Act No. 7 of 1992)
(Sub-s (6) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(7)
(Para. (aA) inserted by s.9 (c) of Act No. 7 of 1992)

(Para. (b) substituted by s.9 (b) of Act No. 7 of 1992 and by s.5 of Act No 7 of 2005)
(Sub-s (7) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

37 Functions of bodies corporate
(Section 37 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

38 Powers of bodies corporate
(Section 38 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

39 Functions and powers of bodies corporate to be performed or exercised by trustees
(Section 39 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

40 Fiduciary position of trustees
(Section 40 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

41 Proceedings on behalf of bodies corporate
(Section 41 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

42 Powers of curatores ad litem
(Section 42 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

43 Security for costs by applicants for appointment of curatores ad litem
(Section 43 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

PART IX
OWNERS, PREMIERS AND BUILDINGS

44 Duties of owners
(Section 44 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

45 Insurance by owners
(Section 45 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

46 Appointment of administrators
(Section 46 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

47 Recovery from owners of unsatisfied judgment against bodies corporate, and non-liability of bodies corporate for debts and obligations of developers
(Section 47 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

48 Destruction of or damage to buildings
(Section 48 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

49 Disposal on destruction of buildings
(1) When in terms of section 17(3) of the Sectional Title Schemes Management Act, Act 8 of 2011 the building or buildings comprised in a scheme is or are deemed to be destroyed and the owners have resolved not to rebuild the building or buildings, the body corporate must, subject to Section 17(9) of the Sectional Title Schemes Management Act, Act 8 of 2011, lodge with the registrar a notification in the prescribed form of such destruction and a copy of the relevant resolution of the owners as certified by two trustees of the body corporate.
(Sub-s (1) amended by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(2) Upon receipt of such notification the registrar shall make an entry thereof in the relevant sectional title register.

(3) When such entry has been made in the relevant sectional title register-
(a) the owners shall cease to be separate owners of sections but shall, subject to the provisions of section 48 (2), remain co-owners of the land in undivided shares proportionate to the quotas of the respective sections previously owned by them;
(b) any sectional mortgage bond, lease or other real right or condition then registered against or affecting a unit, shall be deemed to be converted into a mortgage bond, lease or other real right or condition registered against or affecting the undivided share in the land which formed part of such unit;
(c) the land shall revert to the land register; and

(d) the sectional title deeds of 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.
(Para. (d) substituted by s.20 (a) of Act No. 63 of 1991)

(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;
(c) make suitable endorsements on any sectional mortgage bond, lease or other real right to reflect the conversion referred to in subsection (3) (b);
(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;
(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.
(Sub-s. (4) substituted by s.20 (b) of Act No. 63 of 1991)

(5) Upon receipt of the notification that the whole of the land has reverted to the land register, the Surveyor-General shall cancel the relevant sectional plan.

50 Unencumbered sections destroyed by State or local authority
(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 sectional title deed.

(2) An application in terms of subsection (1) shall be accompanied by the owner's copy of the relevant sectional title deed.

(3) On receipt of such application, the registrar shall cancel the deeds office's and owner's copy of the relevant 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 sectional title deed shall vest in the owners of the remaining sections in the building proportionately to their respective participation quotas.

(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 sectional title deed referred to in the notification.
(S. 50 substituted by s.21 of Act No. 63 of 1991)

51 Valuation of land and buildings and recovery of rates by local authorities
(Section 51 repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

PART X
MISCELLANEOUS

52 .....
(S.52 repealed by s.25 of Act No. 44 of 1997)

53 ....
(S.53 repealed by s.18 of Act No. 50 of 1999)

54 Sectional titles regulation board
(1) There is hereby established a sectional titles regulation board (in this section referred to as the regulation board), which shall-
(a) make recommendations to the Minister concerning any matter specified in section 55 in regard to which the Minister may make regulations;
(b) keep the working and implementation of this Act and the regulations under regular review and which may make recommendations to the Minister in regard to any amendments or other action which may be advisable; and
(c) advise the Minister on any matter referred to it by the Minister.

(2) The regulation board shall consist of the following members-
(a) the Chief Registrar of Deeds appointed in terms of section 2 of the Deeds Registries Act, who shall act as chairman at the proceedings of the regulation board;
(b) the Chief Surveyor-General; and
(c) seven members appointed by the Minister, who shall consist of the following persons-

(i)a conveyancer nominated by the Executive Council of the Law Society of the Republic of South Africa;
(Subpara. (i) substituted by s.13 of Act No. 11 of 2010)
(ii)a professional land surveyor nominated by the relevant Council;
(iii) an architect nominated by the relevant Council;

(iv) an officer in the employ of the Council of South African Banks;
(Subpara. (iv) substituted by s.26(a) of Act No. 44 of 1997)

(v)two persons having special knowledge of sectional title development schemes; and
(vi) an official of the Department of Land Affairs.
(Subpara. (vi) substituted by s.26(b) of Act No. 44 of 1997)

(3) For every member of the regulation board appointed in terms of subsection (2) (c) there shall be an alternate member appointed in the same manner as such member, and any alternate member so appointed shall act in the place of the member in respect of whom he has been appointed as alternate member, during such member's absence or inability to act as a member of the regulation board.

(4) The Chief Registrar of Deeds and the Chief Surveyor-General may each designate a person from their respective offices to act in their place at meetings which they are unable to attend.

(5) When any nomination in terms of subsection (2) (c) (i), (ii), (iii) or (iv) becomes necessary, the body concerned shall at the request of the Director-General: Land Affairs furnish the nomination required for appointment to the regulation board, within a period of 60 days from the date of such request, failing which the Minister may appoint, subject to the provisions of that subsection, any suitable person as a member in place of the person he or she would have appointed if the said body had not so failed to nominate a person.
(Sub-s. (5) substituted by s.26(c) of Act No. 44 of 1997)

(6) A member of the regulation board appointed by the Minister shall hold office for the period determined by the Minister, but the Minister may, if in his opinion there is good reason for doing so, terminate the appointment of such a member at any time before the expiration of his period of office.

(7) If a member of the regulation board dies or vacates his office before the expiration of his period of office, the Minister may, subject to the provisions of subsection (2) (c), appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(8) A member of the regulation board whose period of office has expired, may be reappointed.

(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.
(Sub-s, (9) substituted by s.22 of Act No. 63 of 1991)

(10) In the absence of the chairman, the Chief Surveyor-General shall act as chairman of the regulation board.

(11) (a) The regulation board shall from time to time meet at such times and places as are determined by the chairman.
(b) The Minister may at any time direct the chairman of the regulation board to convene a meeting of the board at a time and place specified by the Minister.

(12) (a) Five members of the regulation board, one of whom shall be a member referred to in subsection (2) (a) or (b), shall form a quorum for a meeting of the board.
(b) A decision of a majority of the members of the regulation board present at any meeting shall be a decision of the regulation board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(13) The regulation board may regulate the proceedings at its meetings as it may think fit, and shall cause minutes of such proceedings to be kept

55 Regulations
The Minister may, after consultation with the sectional titles regulation board, make regulations in regard to-
(a) the form of sectional title registers to be opened and kept by a registrar and the particulars to be registered or filed in any such register;
(b) the form of any deed or document to be registered or filed in a deeds registry;
(c) the procedures to be followed in a deeds registry or an office of the Surveyor-General to give effect to the provisions of this Act;
(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 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;
(Para. (d) substituted by s.23 of Act No. 63 of 1991)
(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; 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;
(Para. (e) substituted by s.10 of Act No. 7 of 1992)
(f)the method according to which draft sectional plans, sectional plans, buildings and sections shall be numbered;
(g) the fees of office (if any) to be charged in respect of any act required or permitted to be done in or in relation to, or any matter in connection with, a deeds registry or office of a Surveyor- General, including any report made to the Court by the registrar or Surveyor-General in connection with any application or action to which he is not a party;
(h) .....
(Para. (h) deleted by s.17 of Act No. 170 of 1993)
(i).....
(Para. (i) deleted by s.3 of Act No. 15 of 1993)
(j).....
(Para. (j) deleted by s.27 of Act No. 44 of 1997)
(k) …
(Para. (k) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)
(l)the syllabus for the examination referred to in section 5 (2), and in regard to all matters incidental to conducting such examination;
(m) the conditions under which copies of sectional plans may be issued by the Surveyor- General for judicial, information or other purposes;
(n) any matter required or permitted to be prescribed by regulation under this Act; and
(o) generally, any matter which he considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

56 Notice of applications to Court
Before any application is made to the Court for an order affecting the performance of any act in a deeds registry or office of a Surveyor-General, the applicant shall give notice in writing to the registrar or Surveyor-General concerned at least 21 days before the hearing of such application, and such registrar or Surveyor-General may submit to the Court such report thereon as he may deem fit.

57 Exemption from liability
No act or omission of a registrar, Surveyor-General or any local authority, or of an official who is employed in a deeds registry or office of the Surveyor-General or local authority, in the course of the administration of this Act, shall make the State or that registrar, Surveyor-General, local authority or official liable for damages suffered by anyone in consequence of such act or omission: Provided that if a Court finds that such act or omission was mala fide, the State or local authority, as the case may be, shall be liable for such damages.

58 Powers of Surveyor-General regarding sectional plans registered in terms of Sectional Titles Act, 1971
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 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 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.
(S. 58 substituted by s.24 of Act No. 63 of 1991)

59 Repeal of laws
The laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

60 Savings and transitional provisions
(1) …
(Sub-s. (1) substituted by s. 4 of Act No. 15 of 1993 and by s. 28(a) of Act No. 44 of 1997 and deleted by s 14(a) of Act No 11 of 2010)

(2) The provisions of section 32 (1) and (2) shall not affect the participation quota of any section as reflected on any relevant sectional plan which was registered in terms of the Sectional Titles Act, 1971, prior to the commencement date.

(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, 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, 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.
(Sub-s. (3) substituted by s.25 (a) of Act No. 63 of 1991 and by s.28 (b) of Act No. 44 of 1997)

(4) …
(Sub-s (4) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(5) …
(Sub-s (5) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6)
(Sub-s. (6) amended by s 14(b) of Act No. 11 of 2010 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6A) …
(Sub-s. (6A) inserted by s.25(b) of Act No. 63 of 1991 and deleted by s 14(c) of Act No 11 of 2010)

(7) …
(Sub-s (7) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(8) …
(Sub-s. (8) amended by s.25(c) of Act No. 63 of 1991 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(9) Subject to the provisions of this section, anything done under a provision of a law repealed by section 59, shall be deemed to have been done under the corresponding provision of this Act.

60A Further savings and transitional provisions
(1) …
(Sub-s. (1) deleted by s.15(a) of Act No. 11 of 2010)

(2) The provisions of section 32 (1) and (2) of this Act shall not affect the participation quota of any section as reflected on any relevant sectional plan which was registered in terms of any law mentioned in Schedule 2 to the Proclamation prior to the commencement date.

(3) Where an owner has, prior to the commencement date, acquired, in terms of an agreement or been granted in terms of rules made under any law mentioned in Schedule 2 to the Proclamation, the right to exclusive use of a part or parts of common property, the body corporate concerned shall, if so requested by the owner after the commencement date 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.

(4) …
(Sub-s (4) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(5) …
(Sub-s (5) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(6) …
(Sub-s. (1) amended by s.15(b) of Act No. 11 of 2010 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(7) …
(Sub-s (7) repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(8) …
(Sub-s.. (8) amended by s.25(c) of Act No. 63 of 1991 and repealed by Section 19 of the Sectional Title Schemes Management Act, Act 8 of 2011)

(9) Subject to the provisions of this section, anything done under a provision of a law mentioned in Schedule 2 to the Proclamation and repealed by that Proclamation shall be deemed to have been done under the corresponding provision of this Act.
(S.60A inserted by Proclamation No. R9 of 1997)

61 Short title and commencement
This Act shall be called the Sectional Titles Act, 1986, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.
SCHEDULE

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act 66 of 1971	Sectional Titles Act, 1971	The whole
Act 62 of 1973	General Law Amendment Act, 1973	Section 44
Act 94 of 1974	Second General Law Amendment Act, 1974	Section 49
Act 57 of 1975	General Law Amendment Act, 1975	Sections 38 and 39
Act 1 of 1977	Sectional Titles Amended Act, 1977	The whole
Act 54 of 1980	Sectional Titles Amended Act, 1980	The whole
Act 59 of 1980	Share Blocks Control Act, 1980	Section 23 and Schedule 3
Act 12 of 1981	Sectional Titles Amended Act, 1981	The whole
Act 77 of 1983	Sectional Titles Amended Act, 1983	The whole