

**GNR.1231 of 7 October 2016: Sectional Titles Schemes Management Regulations
(Government Gazette No. 40335)**

DEPARTMENT OF HUMAN SETTLEMENTS

I, Lindiwe Nonceba Sisulu, the Minister of Human Settlements, hereby in terms of section 19 of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), and after consultation with Parliament, make the Regulations as set out in the Schedule hereto.

(Signed)

LINDIWE NONCEBA SISULU
MINISTER OF HUMAN SETTLEMENTS

SCHEDULE
ARRANGEMENT OF SECTIONAL TITLES SCHEMES MANAGEMENT REGULATIONS

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1. Definitions.—In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

- (a) **“managing agent”** means any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services
- (b) **“primary section”** means a section designed to be used for human occupation as a residence, office, shop, factory or for any other type of use allowed in terms of local municipal by-laws, not being a utility section;
- (c) **“scheme management service”** means any financial, secretarial, administrative or other service relating to the administration of a scheme; and
- (d) **“the Act”** means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);
- (e) **“these regulations”** includes the Annexures;
- (f) **“utility section”** means a section which, in terms of local municipality by-laws, is designed to be used as an accessory to a primary section, such as a bathroom, toilet, storeroom, workshop, shed, servant’s quarters, parking garage, parking bay or other utility area, not being a primary section.

2. Minimum amounts for reserve fund.—For the purposes of section 3 (1) (b) of the Act, the minimum amount of the annual contribution to the reserve fund for a financial year being budgeted for, other than the financial year budgeted for at the first general meeting referred to in section 2 (8) of the Act, must be determined as follows—

- (a) If the amount of money in the reserve fund at the end of the previous financial year is less than 25 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least 15 per cent of the total budgeted contribution to the administrative fund;
- (b) if the amount of money in the reserve fund at the end of the previous financial year is equal to or greater than 100 per cent of the total contributions to the administrative fund for that previous financial year, there is no minimum contribution to the reserve fund; and
- (c) if the amount of money in the reserve fund at the end of the previous financial year is more than 25 per cent but less than 100 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least the amount budgeted to be spent from the administrative fund on repairs and maintenance to the common property in the financial year being budgeted for.

3. Other risks to be insured against.—Other risks against which a body corporate may insure, in terms of section 3 (1) (h) of the Act, are—

- (a) lightning, explosion and smoke;
- (b) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;
- (c) storm, tempest, windstorm, hail and flood;
- (d) earthquake and subsidence;
- (e) water escape, including bursting or overflowing of water tanks, apparatus or pipes;
- (f) impact by aircraft and vehicles; and
- (g) housebreaking or any attempt thereat.

4. Powers of a provisional *curator ad litem* and *curator ad litem*.—For the purposes of section 9 (5) of the Act, the powers of a provisional *curator ad litem* appointed in terms of section 9 (3) of the Act or a *curator ad litem* whose appointment has been confirmed by a Court in terms of subsection 9 (4) of the Act, in addition to any powers expressly granted by the Court, are—

- (a) to attend, ask questions and speak, but not to vote, at meetings of the body corporate and of its trustees; and
- (b) to inspect and make copies of any information about the affairs of the body corporate relevant to the curator’s mandate.

5. Notifications.—(1) The body corporate notification of its service address referred to in section 3 (1) (o) of the Act must be substantially in accordance with Form A of Annexure 3.

(2) The body corporate notification of amendment of rules referred to in section 10 (5) (a) of the Act must be substantially in accordance with Form B of Annexure 3.

(3) The notification by a member to a body corporate of the appointment of a proxy must be substantially in accordance with Form C of Annexure 3.

6. Rules.—(1) Rules, as prescribed and as amended by a body corporate in accordance with section 10 of the Act, must be considered to be and interpreted as laws made by and for the body corporate of that scheme.

(2) For the purposes of section 10 (2) (a) and (b)—

- (a) Subject to sub-regulations (3), (4), (5) and (6), management rules are as they appear in Annexure 1; and
- (b) Conduct rules are as they appear in Annexure 2.

(3) when submitting an application for the opening of a sectional title register a developer may substitute, amend or withdraw management rules number 5 (2) and (3), 7, 8 (1) and (2) and 12 and may add management rules that are not inconsistent with any other management rule that appears in Annexure 1.

(4) If the schedule referred to in section 11 (3) (b) of the Sectional Titles Act contains a condition restricting transfer of a unit without the consent of an association whose constitution stipulates that—

- (a) All members of the body corporate and of the development scheme of which the unit forms part, must be members of that association and;
- (b) The functions and powers of the body corporate must be assigned to that association; the developer may, when submitting an application for the opening of a sectional title register, substitute any management rule that appears in Annexure 1.

(5) If at the commencement of the Act the members of a body corporate are all members of an association whose constitution binds its members to assign the functions and powers of the body corporate to that association, the management rules contained in Annexure 1 do not apply.

(6) The management rules set out in Annexure 1 may be added to, amended or repealed by unanimous resolution of the body corporate: Provided that no such addition, amendment or repeal made be made until such time as there are owners, other than the developer, of at least 30% of the units in the scheme save in the case of a body corporate which is established in a scheme which was approved in terms of the Sectional Title Act, 1971.

7. Broadly representative nature of Advisory Council.—For the purposes of section 18 (4) (b), persons nominated for consideration for appointment by the Minister to the Advisory Council must be broadly representative of females, males and, where possible, include people with disabilities.

8. Short title and effective date.—These Regulations are called the Sectional Titles Schemes Management Regulations, 2016 and will come into operation on the date of publication in the *Government Gazette*.

ANNEXURE 2 CONDUCT RULES

Prescribed in terms of section 10 (2) (b) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

1. Keeping of animals, reptiles and birds.—(1) The owner or occupier of a section must not, without the trustees' written consent, which must not be unreasonably withheld, keep an animal, reptile or bird in a section or on the common property.

(2) An owner or occupier suffering from a disability and who reasonably requires a guide, hearing or assistance dog must be considered to have the trustees' consent to keep that animal in a section and to accompany it on the common property.

(3) The trustees may provide for any reasonable condition in regard to the keeping of an animal, reptile or bird in a section or on the common property.

(4) The trustees may withdraw any consent if the owner or occupier of a section breaches any condition imposed in terms of sub-rule (3).

2. Refuse and waste disposal.—(1) The owner or occupier of a section must not leave refuse or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by another owner or occupier.

(2) Unless the body corporate provides some other way to dispose of refuse, the owner or occupier of a section must keep a receptacle for refuse of a type specified by the trustees in a clean and dry condition and adequately covered in the section, or on a part of the common property designated by the trustees for the purpose.

(3) The owner or occupier of a section must—

- (a) move the refuse receptacle referred to in sub-rule (2) to places designated by the trustees for collection purposes at the times designated by the trustees and promptly retrieve it from these places; and
- (b) ensure that the owner or occupier does not, in disposing of refuse, adversely affect the health, hygiene or comfort of the owners or occupiers of other sections.

3. Vehicles.—(1) The owner or occupier of a section must not, except in a case of emergency, without the written consent of the trustees, park a vehicle, allow a vehicle to stand or permit a visitor to park or stand a vehicle on any part of the common property other than a parking bay allocated to that section or a parking bay allocated for visitors' parking.

(2) A consent under sub-rule (1) must state the period for which it is given.

4. Damage to common property.—(1) The owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.

(2) An owner or occupier of a section must be considered to have the trustees' consent to install a locking or safety device to protect the section against intruders, or a screen to prevent entry of animals or insects, if the device or screen is soundly built and is consistent with a design, colour, style and materials approved in writing by the trustees.

(3) The owner or occupier of a section must keep a device installed under sub-rule (2) in good order and repair.

5. Appearance of section and exclusive use area.—(1) The owner or occupier of a section must not, without the trustees' written consent, make a change to the external appearance of the section or any exclusive use area allocated to it unless the change is minor and does not detract from the appearance of the section or the common property.

(2) The owner or occupier of a section must not, without the trustees' written consent—

- (a) erect washing lines on the common property;
- (b) hang washing, laundry or other items in a section or any exclusive use area allocated to it if the articles are visible from another section or the common property, or from outside the scheme; or
- (c) display a sign, notice, billboard or advertisement if the article is visible from another section or the common property, or from outside the scheme.

6. Storage of flammable materials.—(1) Subject to sub-rule (2), the owner or occupier of a section must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes.

(2) This rule does not apply to the storage of fuel or gas in—

- (a) the fuel tank of a vehicle, boat, generator or engine; or
- (b) a fuel tank or gas cylinder kept for domestic purposes.

7. Behaviour of occupiers and visitors in sections and on common property.—(1) The owner or occupier of a section must not create noise likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.

(2) The owner or occupier of a section must not obstruct the lawful use of the common property by any other person.

(3) The owner or occupier of a section must take reasonable steps to ensure that the owner or occupier's visitors do not behave in a way likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.

(4) The owner or occupier of a section is obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any other grant of rights of occupancy.

8. Eradication of pests.—(1) The owner of a section must keep the section free of wood-destroying insects, including white ants and borer beetles.

(2) The owner or occupier of a section must allow the trustees, the managing agent, or their duly authorised representatives to enter the section on reasonable notice to inspect it and take any action reasonably necessary to eradicate any such pests and replace damaged woodwork and other materials.

(3) The body corporate must recover the costs of the inspection and replacement referred to in sub-rule (2) from the owner of the section.