



**ALAN LEVY**

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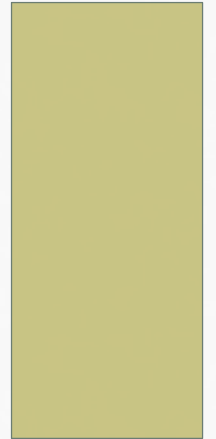
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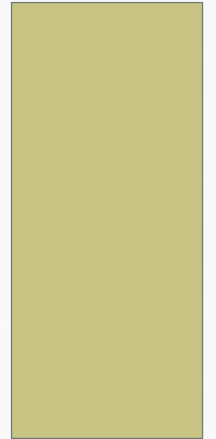
# THE AMENDED PRESCRIBED MANAGEMENT RULES (PMR)

PRESENTED BY: ALAN LEVY OF ALAN LEVY  
ATTORNEYS'



# SPECIAL LEVIES

DELETION OF PMR 31 (4) / AMENDMENT OF S37  
(2A) AND 37 (2B)



# OLD PMR 31 (4) – NOW DELETED

- (4) The **trustees** may from time to time, when necessary, make **special levies** upon the owners or call upon them to make special contributions in respect of all such expenses as are mentioned in rule 31 (1) above [which are not included in any estimates made in terms of rule 31 (2) above], and such levies and contributions may be made payable in one sum or by such instalments and at such time or times as the trustees shall think fit.

# SECTIONS 37 (2A) AND 37 (2B)

- (2) **Liability for contributions levied under any provision of subsection (1), save for special contributions contemplated by subsection (2A), accrues from the passing of a resolution to that effect by the trustees of the body corporate, and may be recovered by the body corporate by action in any court (including any magistrate's court) of competent jurisdiction from the persons who were owners of units, holders of exclusive use areas and holders of real rights of extension at the time when such resolution was passed: Provided that upon the change of ownership of a unit, exclusive use areas and real rights of extension, the successor in title becomes liable for the pro rata payment of such contributions from the date of change of such ownership.**
- [Sub-s. (2) substituted by s. 9 of Act 29 of 2003 and by s. 11 (b) of Act 11 of 2010.]

# SECTIONS 37 (2A) AND 37 (2B)

- (2A) Any **special contribution becomes due on the passing of a resolution in this regard by the trustees of the body corporate levying such contribution** and may be recovered by the body corporate by action in any competent court (including any magistrate's court) having jurisdiction, from the persons who were owners of units at the time when such resolution was passed.

[Sub-s. (2A) inserted by s. 11 (c) of [Act 11 of 2010](#).]

- (2B) '**Special contribution**', for the purposes of this section, means any contribution levied under subsection (1) **other than contributions which arise from the approval of the estimate of income and expenditure at an annual general meeting** of a body corporate, **determined to be a contribution** to be levied upon the owners during the ensuing financial year.

[Sub-s. (2B) inserted by s. 11 (c) of [Act 11 of 2010](#).]

# LEVY BUDGET

AMENDMENT OF PMR 36 (1)



## OLD PMR 36 (1)

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

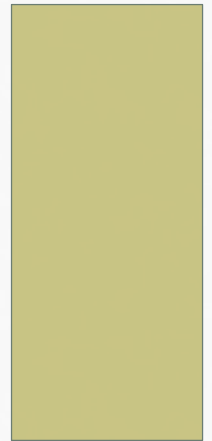


# NEW PMR 36 (1)

- **Prior to the commencement of every financial year** of the body corporate, the trustees shall cause to be prepared an **itemised estimate of the anticipated income and expenses** of the body corporate for the **ensuing financial year**, which estimate shall be **laid before the annual general meeting** for consideration in terms of rule 56 hereof.
- [Subrule (1) substituted by GN R820\* of 28 September 2011 (with effect from one month from date of publication in the *Gazette*).]
- (**Rule 56** – approval at AGM of income and expenditure to Rule 36)

# NOTICE OF GENERAL MEETINGS

SUBSTITUTION OF PMR 39 2 (2) AND 54 (1)



# OLD PMR 39 (1) AND (2)

- The trustees shall cause copies of the schedules, estimate, audited statement and report referred to in rules 29(1)(c), 36, 37 and 38 to be delivered to each owner , and to any mortgagee which has advised the body corporate of its interest, at least fourteen days before the date of the annual general meeting at which they are to be considered.
- Delivery under the last preceding sub-rule shall be deemed to have been effected if the documents referred to are sent by prepaid post addressed to the owner at his domicilium referred to in rule 3(2), and to any mortgagee as aforesaid at the address of such mortgagee as reflected in the records of the body corporate.

# OLD PMR 54 (1)

- **Notice of General Meetings**
- **Unless otherwise provided for in the Act, at least fourteen days notice of every general meeting** specifying the place, within the magisterial district where the scheme is situated, or such other place determined by special resolution of members of the body corporate, the date and the hour of the meeting and, in the case of special business, the general nature of such business, **shall be given-**
  - to all owners;
  - to all holders of registered mortgage bonds over units who have advised the body corporate of their interests; and
  - to the managing agent.
- The holders of registered mortgage bonds and the managing agent referred to in sub-rule (1), shall have the right to attend the meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- **The notice referred to in sub-rule (1) shall be deemed to have been sufficiently given and delivered if delivered in accordance with rule 39(2).**

# OLD PMR 54 (1) - CONTINUED

- The notice referred to in sub-rule (1) shall be accompanied by the documents referred to in rule 39(1), except in the case of a meeting contemplated in rule 50(1) or a special general meeting.
- **Inadvertent omission to give the notice referred to in sub-rule (1) to any person entitled to such notice or the non-receipt of such notice by such person shall, save in the case of the persons contemplated in sub-rule (1)(b) not invalidate any proceedings at any such meeting.**
- A general meeting of the body corporate may be called on shorted notice than that specified in sub-rule (1) hereof, provided it is so agreed by all persons entitled to attend.
- A special general meeting for the purposes of passing a unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all the members of the body corporate if, in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice.

# NEW PMR 39 (1)

39 (1) The trustees shall cause copies of the schedules, estimate, audited statement and report referred to in rules 29(1)(c), 36, 37 and 38 to be **delivered** to each owner, and to any mortgagee which has advised the body corporate of its interest, at least fourteen days before the date of the annual general meeting at which they are to be considered.

(2) Delivery for purposes of subrule (1) shall be deemed to have been effected if the documents referred to are sent to the owner at the address referred to in rule 3(2), and to any mortgagee as aforesaid at the address of such mortgagee as reflected in the records of the body corporate: Provided that delivery for purposes of subrule (1) shall also be deemed to have been effected on the owner if the said documents are transmitted by **facsimile or electronic mail** to a facsimile number or electronic mail address specified by such owner in writing for the purposes of receiving such documentation which specification shall only be effective on receipt thereof by the body corporate at its *domicilium*. [Subrule (2) substituted by GN R291 of 16 April 2010 and substituted by GN R820\* of 28 September 2011 (wef one month from date of publication in the *Gazette*).]

# NEW PMR 54 (1)

- Notice of General Meetings
- 54. (1) **Unless otherwise provided for in the Act, at least fourteen days' notice of every general meeting** specifying the place, within the magisterial district where the scheme is situated, or such other place determined by special resolution of members of the body corporate, the date and the hour of the meeting and, in the case of special business, the general nature of such business, **shall be given-**
  - (a) to all owners;
  - (b) to all holders of registered mortgage bonds over units who have advised the body corporate of their interests; and
  - (c) to the managing agent.
- (2) The holders of registered mortgage bonds and the managing agent referred to in subrule (1), shall have the right to attend the meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- **(3) The notice referred to in subrule (1)(a) shall be deemed to have been sufficiently given and delivered if delivered in accordance with rule 39(2).**
- (4) The notice referred to in subrule (1) shall be accompanied by the documents referred to in rule 39(1), except in the case of a meeting contemplated in rule 50(1) or a special general meeting.

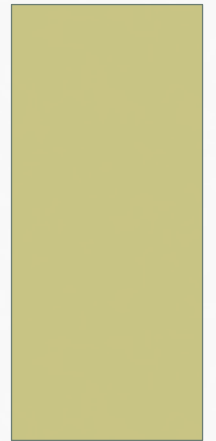
# CONT - NEW PMR 54 (1)

- (5) Inadvertent omission to give the notice referred to in subrule (1), or failure to deliver the documentation referred to in rule 39(1), to any person entitled to such notice or documentation, or the non-receipt of such notice or documentation by such person shall, save in the case of the persons contemplated in subrule (1)(b), not invalidate any proceedings at any such meeting.
- [Subrule (5) substituted by GN R820\* of 28 September 2011 (wef one month from date of publication in the Gazette).]
- (6) A general meeting of the body corporate may be called on shorter notice than that specified in subrule (1) hereof, provided it is so agreed by all persons entitled to attend.
- (7) A special general meeting for the purposes of passing a unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all the members of the body corporate if, in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice:
  - Footnote - \*
  - \* GN R805 corrected to GN R820 by GG 34652 of 7 October 2011.
  - \* GN R805 corrected to GN R820 by GG 34652 of 7 October 2011.



# OMISSION TO PROVIDE THE AGM DOCUMENTATION

SUBSTITUTION OF PMR 54 (5)



# OLD PMR 54 (5)

- See Rule Above
- **Inadvertent omission to give the notice** referred to in sub-rule (1) to any person entitled to such notice or the non-receipt of such notice by such person shall, save in the case of the persons contemplated in sub-rule (1)(b) **not invalidate** any proceedings at any such meeting.

# NEW PMR 54 (5)

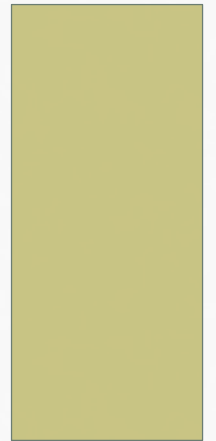
- Notice of General Meetings
- 54. (1) Unless otherwise provided for in the Act, at least fourteen days' notice of every general meeting specifying the place, within the magisterial district where the scheme is situated, or such other place determined by special resolution of members of the body corporate, the date and the hour of the meeting and, in the case of special business, the general nature of such business, shall be given-
  - (a) to all owners;
  - (b) to all holders of registered mortgage bonds over units who have advised the body corporate of their interests; and
  - (c) to the managing agent.
- (2) The holders of registered mortgage bonds and the managing agent referred to in subrule (1), shall have the right to attend the meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- (3) The notice referred to in subrule (1)(a) shall be deemed to have been sufficiently given and delivered if delivered in accordance with rule 39(2).
- (4) The notice referred to in subrule (1) shall be accompanied by the documents referred to in rule 39(1), except in the case of a meeting contemplated in rule 50(1) or a special general meeting.

# NEW PMR 54 (5) CONTINUED

- (5) **Inadvertent omission to give the notice referred to in subrule (1), or failure to deliver the documentation referred to in rule 39(1), to any person entitled to such notice or documentation, or the non-receipt of such notice or documentation by such person shall, save in the case of the persons contemplated in subrule (1)(b), **not invalidate any proceedings at any such meeting.****
- [Subrule (5) substituted by GN R820\* of 28 September 2011 (wef one month from date of publication in the Gazette).]
  - (6) A general meeting of the body corporate may be called on shorter notice than that specified in subrule (1) hereof, provided it is so agreed by all persons entitled to attend.
  - (7) A special general meeting for the purposes of passing a unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all the members of the body corporate if, in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice:
- Footnote - \*
- \* GN R805 corrected to GN R820 by GG 34652 of 7 October 2011.
- \* GN R805 corrected to GN R820 by GG 34652 of 7 October 2011.

# USE OF A SECTION OR EUA

SUBSTITUTION OF PMR 68 (1) (V)



# OLD PMR 68 (1) (V)

- **Statutory and General**
- In addition to his obligation in terms of section 44 of the Act (my insertion – Duties of owners), an owner-
- (v) shall, when the **purpose for which an exclusive use area is intended to be used**, is shown expressly or by implication on or by a **registered sectional plan**, not use, nor permit such exclusive use area to be used, **for any other purpose**: Provided that with the written consent of all owners such exclusive use area may be used for another purpose;

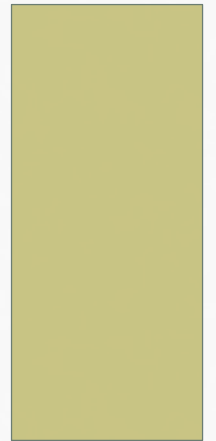
# NEW PMR 68 (1) (V)

- **Statutory and general**

- 68. (1) In addition to his obligations in terms of section 44 of the Act, **an owner-**
- (v) shall, when the purpose for which a **section and exclusive use area** is intended to be used-
- (a) is shown expressly or by implication on a **registered sectional plan**;
- (b) is shown expressly or by implication on the original **approved building plan** thereof;
- (c) can be **inferred from the provisions of the rules**; or
- (d) is **obvious from its construction, layout and available amenities, not use, nor permit such section or exclusive use area to be used, for any other purpose**: Provided that with the written consent of all owners such section or exclusive use area may be used for another purpose.
- [Para. (v) substituted by GN R820\* of 28 September 2011 (wef one month from date of publication in the *Gazette*).]

# ARBITRATION

AMENDMENT OF PMR 71 (4)





## OLD PMR 71(4)

- If the parties cannot agree as to the arbitrator to be appointed in terms of sub-rule (3) within 3 days after the arbitration has been demanded, **the registrar of deeds for the deeds registry in which the scheme is registered** or his or her nominee shall upon written application and subject to payment of the prescribed fee, in writing appoint an arbitrator **within 7 days after he or she has been required to make the appointment** so that the arbitration can be held and concluded without delay.

# NEW PMR 71 (4)

- (4) If the parties cannot agree as to the arbitrator to be appointed in terms of subrule (3) within three days after the arbitration has been demanded, the **chief registrar of deeds** or his or her nominee shall upon written application and subject to payment of the prescribed fee, in writing appoint an arbitrator **within 7 days after he or she has been required to make the appointment** so that the arbitration can be held and concluded without delay. [Subrule (4) substituted by GN R820\* of 28 September 2011 (wef one month from date of publication in the *Gazette*).]



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