



GOVERNMENT GAZETTE

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MINISTRY OF LANDS AND RESETTLEMENT

No. 223 2014

SECTIONAL TITLES REGULATIONS: SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)

Under section 56(1) of the Sectional Titles Act, 2009 (Act No. 2 of 2009), on the recommendation of the Sectional Titles Regulation Board, I have -

- (a) made the Regulations set out in the Schedule; and
- (b) repealed the Regulations made under the Sectional Titles Act, 1971 (Act No. 66 of 1971) and all the amendments to those regulations, if any.

A. !NARUSEB

MINISTER OF LANDS AND RESETTLEMENT

Windhoek, 1 October 2014

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Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates -

“Committee” means the Sectional Titles Examination Committee established by regulation 39(2);

“sectional title file” means the file referred to in regulation 9(1); and

“the Act” means the Sectional Titles Act, 2009, (Act No. 2 of 2009).

Draft sectional plans

2. (1) For a draft sectional plan to be approved by the Surveyor-General and registered in a deeds registry it must comply with the following requirements -

(a) it is prepared on a sheet that is of durable and good quality and approved by the Surveyor-General of any of the following sizes -

(i) 297 mm x 210 mm;

(ii) 297 mm x 420 mm; or

(iii) 297mm x 841 mm,

and is in black ink of good quality, but any departure from these requirements must, prior to the departure be approved by the Surveyor-General in writing;

(b) only one side of the sheet may be used;

(c) the binding margin must be along the 297 mm side and sheets larger than 297 x 210 mm must be folded to that size with the folds clear of the binding margin;

(d) margin are is 40 mm wide along the 297 mm binding side of the sheets and 10 mm wide along the other sides are provided and subject to paragraph (h), the margins are left free of any writing or drawing;

(e) all linear measurements recorded on the plan are in metres to two decimal places;

(f) if angles or angles of direction are required to be shown on the plan, they must be expressed to the nearest 10 seconds;

(g) the scale to which any plan is prepared is either 1 /1 000, 1/1 250, 1/1 500, 1/2 000, 1/2 500, 1/3 000, 1/4 000, 1/5 000, 1/6000 or 1/7500 or is to any of the scales above in which the denominator can be multiplied or divided by 10 to any integral power, but -

(i) the size of the figure on the plan must be sufficiently large to show all the required details; and

(ii) block plans, floor plans and cross-sections of a building may be shown on more than one sheet if necessary.

(h) any addition, alteration or interlineation on a draft sectional plan is initialled by the preparer and for this purpose the margin on the right hand side of the sheet opposite the addition, alteration or interlineation is used;

(i) the buildings on the draft sectional plan are consecutively numbered, commencing with the figure “1”.

(j) all sections in a development scheme are consecutively numbered on the draft sectional plan, commencing with the figure “1”;

(k) the number allocated to a section on the draft sectional plan is allocated to all parts of that section;

- (l) the numbers allocated to sections on a draft sectional plan of subdivision, plan of consolidation or of extension, continue from the last number allocated in respect of the development scheme, but if a section is extended, it retains the same number;
 - (m) an exclusive use area is uniquely numbered;
 - (n) if the boundaries of a section or of a part of the section cannot be defined by reference to its floor, walls and ceiling, the boundaries are defined in a manner acceptable to the Surveyor-General;
 - (o) the common boundary between an exclusive use area created in terms of section 28(1), 28(9) or 61(3) of the Act and a section or common property is -
 - (i) in the case of physical features, the median line of the dividing floor, wall, ceiling, fence or other similar feature, unless boundaries have been described in a different manner on the draft sectional plan; and
 - (ii) a boundary which is not a physical feature, described in a manner acceptable to the Surveyor-General or in terms of beacons determined in accordance with the Land Survey Act, which beacons is described, and sufficient data is given on such plan to define the area and to determine the location thereof in relation to the building, section or boundaries of the land concerned;
 - (p) each sheet contains -
 - (i) the title of the sheet;
 - (ii) the sheet number and, in addition thereto, an indication of the number of sheets of which the draft sectional plan will consist, as follows :

“Sheet of sheets”;
 - (iii) the name and address of the architect or land surveyor concerned, or if the architect or land surveyor is practicing with a firm of architects or land surveyors, the name of the architect or land surveyor concerned and the name and address of the firm, all in block letters, the signature of the architect or land surveyor and his or her professional designation;
 - (iv) the date on which the architect or land surveyor signed the sheet;
 - (v) a space for the approval certificate of the Surveyor-General; and
 - (vi) such notes as the architect or land surveyor may wish to make.
- (2) Subject to subregulation (3), a draft sectional plan consists of the following sheets which, subject to the Act and subregulation (4), contain the following particulars namely -
- (a) the first sheet, which is substantially in the form of Form 1 in Annexure 1 and which contains, in addition to the particulars prescribed by subregulation (1)(p), the following -
 - (i) the name of the development scheme;
 - (ii) the description of the land as reflected on the relevant approved general plan or approved diagram;

- (iii) the number of the relevant approved general plan or of the approved diagram of the land;
- (iv) the number of the section or part of a section in a building, but if a building consists only of common property, it is so described;
- (v) any encroachment on the land to which the development scheme relates;
- (vi) a certificate signed by the architect or land surveyor stating that the draft sectional plan has been prepared from actual measurements taken by him or her or under his or her directions, but if the responsibility for the preparation of the draft sectional plan is carried by more than one person, each of the architect or land surveyor must affix a certificate to this sheet, and the certificate states to what extent the person who signed the certificate accepts responsibility for the preparation of the draft sectional plan;
- (vii) a *caveat*, if a developer reserves himself or herself the right under section 26 of the Act to erect a further building or buildings or horizontally or vertically extend an existing building;
- (viii) the name of the local authority concerned;
- (ix) the sheet number on which exclusive use areas are found;
- (x) space for -
 - (aa) the signature of the registrar and his or her reference number;
 - (bb) the signature of the Surveyor-General and his or her reference number;
- (b) a sheet on which a block plan is prepared which must contain, in addition to complying with section 7(3)(a) of the Act and subregulation (1)(n) -
 - (i) a description of contiguous land and the names of contiguous streets, if any;
 - (ii) the position at ground level of the external surfaces of the walls of all buildings shown by a solid line, together with the horizontal distances between each rectilinear cadastral boundary and the buildings nearest to the boundary, but if the external surfaces of any walls are interrupted at ground level by features such as archways, doorways or similar openings, the external surfaces must be shown by a solid line;
 - (iii) the greatest extent to which the external surfaces excluding roof overhangs, unless the overhang encroaches over the cadastral boundary, protrude beyond the external surfaces of the building at ground level shown by distinctive broken lines, together with the horizontal distance between each rectilinear cadastral boundary and the nearest protrusion to the boundary, but if a basement area determined by the internal surfaces of the walls projects beyond the external surface of the building at ground level, the projection is shown separately by a distinctive broken line and a brief description is given of all parts of the building indicated by a distinctive broken line;
 - (iv) any encroachment on the land to which the development scheme relates;

- (v) any servitude burdening the land reflected on the relevant approved diagram or general plan;
 - (vi) a sign indicating the true north direction; and
 - (vii) an exclusive use area as referred to in subregulation (1)(m) which is delineated by means of distinctive broken lines and expresses the area to the nearest square metre, but if details cannot be shown clearly on the sheet the details are shown in an inset or on an additional sheet as contemplated in paragraph (e);
- (c) a sheet on which the diagrammatic floor plan in respect of each storey in the building referred to in section 7(3)(c) and (d) of the Act are shown and which contains, in addition to the particulars mentioned in subregulation (1)(n) -
- (i) the boundaries of the sections shown in a solid line;
 - (ii) the common property areas by means of distinctive broken lines;
 - (iii) an indication of the position of the diagrammatic cross-sections when required in terms of subregulation (4);
 - (iv) the number of each section or part of the section;
 - (v) a sign indicating the true north direction;
 - (vi) the other information as may be necessary to define each section; and
 - (vii) an exclusive use area referred to in subregulation (1)(m), which -
 - (aa) is be delineated by means of distinctive broken lines; and
 - (bb) expresses the area to the nearest square metre,but if sufficient details cannot be shown clearly on the sheet concerned, the details are shown in an inset or on an additional sheet as contemplated in paragraph (e);
- (d) a sheet containing in numerical sequence -
- (i) the floor areas of the sections referred to in section 7(3)(e) of the Act; and
 - (ii) the participation quotas in respect of the sections in the schedule as referred to in section 7(3)(g) of the Act, but the participation quotas of the separate sections are made up in such a way that the total participation quota is equal to 100.0000;
- (e) a sheet containing the insets referred to in paragraph (b)(vii) and (c)(vii).
- (3) If a draft sectional plan is intended for the purposes of -
- (a) a subdivision, consolidation or extension of a section or sections;
 - (b) the extension of a development scheme or common property;
 - (c) ceding the right to the exclusive use of a part or parts of a common property as contemplated in section 28(2) of the Act;

- (d) the amendment of a development scheme due to the destruction of or damage to a building or buildings; or
- (e) the amendment of a sectional plan in terms of section 14(1) of the Act,

it needs only comprise the sheets as are affected by the amendments and the heading of the plan is styled as an amending sectional plan.

(4) If uncertainty or ambiguity about the boundaries of a section exists, a draft sectional plan must contain an additional sheet that contain -

- (a) diagrammatic cross-sections of the building or buildings of every floor in the building or buildings, detailed sufficiently to indicate the boundaries of every section; and
- (b) in addition to the particulars mentioned in subregulation (1)(n) -
 - (i) the number of the building and the name or number of every floor; and
 - (ii) such other information as may be necessary to define every section.

(5) The developer must furnish the architect or land surveyor with all documents and particulars required by the architect or land surveyor to prepare the draft sectional plan.

(6) The Surveyor-General may refuse to approve a draft sectional plan if he or she is of the opinion -

- (a) that the plan is dilapidated or has been prepared in a careless manner or that the appearance is spoiled by multiple additions, alterations or interlineations; or
- (b) that the writing or any drawing on the plan does not, owing to faintness or any other reason, ensure durability.

Submission of draft sectional plan to Surveyor-General

3. (1) The submission of a draft sectional plan to the Surveyor-General in terms of section 6(1)(a) of the Act for its approval is in the form of Form 2 in Annexure 1, and is accompanied by -

- (a) one paper copy and two copies on durable drawing material of the draft sectional plan concerned; and
- (b) a certificate by the architect or land surveyor stating that the boundaries of the sections and common property are physically defined as contemplated in the Act.

(2) In addition to the requirements of section 9(2)(a) of the Act, the submission referred to in subregulation (1) is accompanied by the plans and other documents listed in Form 2 in Annexure 1.

(3) The field book or field plan must contain the record of all measurements made in the field.

(4) The records relating to the drafting of the draft sectional plan include -

- (a) the calculations of the dimensions of the sections to the median lines from the field instruments;

- (b) sufficient calculations or evidence to indicate how the area of each section or exclusive use area was determined and checked;
- (c) a list of co-ordinates of at least two corners or identified permanent features of each building and the distances between the corners or features must be adequate to provide an accurate determination of the position of each building and the co-ordinates concerned may be listed on the copy of the block plan; and
- (d) on the block plan references to two legally established beacons in terms of the Land Survey Act, 1993 (Act No. 33 of 1993) on which the survey was based.

Field measurements

4. (1) Measurements by a land surveyor or architect for the preparation of a draft sectional plan made in the field are made correct to two decimal places of a metre and recorded in the field book or on the field plan at the time of the measurement in the field.

(2) A land surveyor or architect must make sufficient measurements to enable all median dimensions to be calculated and checked in order to be consistent with the dimensions of the building as a whole and to have the sections and other details on the draft sectional plan correctly depicted.

(3) The Land Survey Act and the regulations made under that Act apply to the manner in which and the accuracy to which the survey of buildings and exclusive use areas, of which the boundaries are not represented by physical features of a permanent nature, are performed.

Accuracy and correctness of draft sectional plan

5. (1) The Surveyor-General may at any time examine in any appropriate manner the accuracy or correctness of a draft sectional plan or any measurement recorded by a land surveyor or architect.

(2) If the Surveyor-General finds a draft sectional plan or measurement referred to in subregulation (1) to be inaccurate or incorrect, the Surveyor-General may -

- (a) refer the defective or incorrect plan back to the land surveyor or architect concerned to make corrections on the existing plan and to initial at the corrections; or
- (b) require that a correction plan be submitted.

Application for opening of sectional title register

6. (1) An application for the opening of a sectional title register in terms of section 11(1)(a) of the Act is in the form of Form 3 in Annexure 1.

(2) The registrar must suitably endorse the title deed referred to in section 11(3)(c) of the Act to indicate that the land described is subject to a development scheme and is registered in the sectional title register, but if a conveyancer submits to the registrar a certificate to the effect that the title deed is not available, the registrar must -

- (a) endorse the registry duplicate of the title deed in accordance with this subregulation; and
- (b) make an endorsement similar to the endorsement in terms of paragraph (a) on the original title deed if the original title deed is at any time lodged with the registrar for any purpose.

(3) The schedule referred to in section 11(3)(b) of the Act must contain, in addition to the particulars prescribed in that section -

- (i) the name of the development scheme concerned;
- (ii) the full name and address of the developer concerned;
- (iii) the number of the title deed of the land in question; and
- (iv) in the event of land defined on an approved diagram, the number of the title deed with which the diagram is filed.

Certificate of registered sectional title

7. (1) A certificate of registered sectional title referred to in section 11(3)(f) of the Act is -

- (a) in the form of Form 4 in Annexure 1 and typed or printed -
 - (i) on paper of durable and good quality of the size known as A4 standard paper;
 - (ii) in letters and numbers of not less than two millimetres in size; and
 - (iii) in black ink of a good quality,as approved by the registrar;
- (b) signed and dated by the registrar; and
- (c) sealed with the seal of office of the registrar.

(2) The registrar must reject a certificate of registered sectional title lodged with him or her which does not comply with subregulation (1).

(3) Subject to subregulation (4), a certificate of registered sectional title is lodged with the registrar in duplicate.

(4) If a procedure is followed in a deeds registry of reproducing deeds and documents electronically and of keeping the electronic reproduction instead of the actual deed or documents, it is not necessary, despite anything to the contrary in these regulations, to lodge a duplicate original of the deed or document for filing in the deeds registry.

(5) Upon registration the deed or document referred to in subregulation (4) is considered to be the copy filed in the deeds registry until such time as the reproduction of the deed or document is filed in lieu, but this subregulation does not apply in a deeds registry until the registrar of deeds has instructed the deputy registrar of the office concerned in writing.

(6) This regulation applies with the necessary changes to any certificate of registered sectional title or sectional title deed issued under any other provision of the Act.

Registration of sectional plan

8. (1) The distinctive number referred to in section 12(1)(a) of the Act is allotted consecutively, commencing each year with the number "1".

- (2) The number referred to in subregulation (1) is followed by -
 - (a) a slash; and
 - (b) the year in which the sectional plan is registered.
- (3) The registrar may refuse to register a sectional plan if he or she is of the opinion that the plan -
 - (a) has a shoddy, shabby, ragged or inferior appearance;
 - (b) has been prepared in a careless or unprofessional manner;
 - (c) has its appearance spoiled by multiple additions, alterations or interlineations; or
 - (d) due to the writing or any drawing on the plan is not, owing to faintness or any other reason, secured for durability.

Sectional title registers

9. (1) The sectional title register referred to in section 12(1)(b) of the Act is opened by means of a sectional title file in the form of Form 5 in Annexure 1.

(2) The same number is allotted to both the sectional title file and the sectional plan concerned.

(3) In the sectional title file is filed -

(a) the documents referred to in section 11(3) of the Act, with the exception of -

- (i) the certificate of registered sectional title;
- (ii) the copy of the title deed of the land for the owner; and
- (iii) the bond;

(b) the copy of any notice to the Surveyor-General and to the local authority concerned of the registration or cancellation of the registration of a sectional plan or of the reversion of land to the land register; and

(c) correspondence relating to the development scheme.

(4) If a procedure of -

(a) reproducing documents and of keeping the reproduction instead of the original documents; and

(b) maintaining a register as referred to in section 12(1)(c) of the Act,

in a deeds registry is followed, the sectional title file referred to in subregulation (3) may be substituted by such reproduction and such register.

(5) Despite subregulation (4), the sectional title file may be maintained for certain documents if the registrar so determines.

Certificate of real right

10. (1) The certificate of real right referred to in section 12(1)(e)(i) of the Act is in the form of Form 6 in Annexure 1.

(2) The certificate of real right referred to in section 26(9) of the Act is -

(a) in the form of Form 7 in Annexure 1; and

(b) accompanied by the written consent of -

(i) all the members of the body corporate; and

(ii) every holder of a bond over a unit in the development scheme.

(3) The certificate of real right referred to in section 12(1)(e)(ii) of the Act is in the form of Form 8 in Annexure 1.

Alteration, amendment or substitution of registered sectional plan

11. (1) Regulation 2 applies with the necessary changes to a sectional plan which is to be altered, amended or substituted for a registered sectional plan.

(2) The registrar must forward a copy of a sectional plan which is altered, amended or substituted for a registered sectional plan to the local authority concerned.

(3) If the registrar alters, amends, endorses or makes entries on a relevant sectional title deed as contemplated in section 14(8) of the Act, he or she must endorse that the alteration, amendment, endorsement or entry has been made in accordance with an alteration, amendment or substitution of the registered sectional plan.

(4) If the registration of a sectional plan is cancelled on the application of the developer in terms of section 14(10) of the Act, the registrar must make the necessary endorsement on -

(a) each of the relevant sectional title deeds;

(b) the titles to any real rights; and

(c) the schedule referred to in section 11(3)(b) of the Act.

(5) If the registration of a sectional plan is cancelled, the registrar must make the alterations, amendments, endorsements and entries in the relevant land register and records which are necessary to effect the reversion of the land to the land register.

(6) Any entry referred to in subregulation (5) contains a reference to the number of the relevant sectional plan.

(7) If the registration of a sectional plan is cancelled, the registrar must revive the developer's title deed of the land referred to in section 11(3)(c) of the Act by making an appropriate endorsement on the title deed under his or her signature and the date of the endorsement if a certificate of registered title referred to in section 14(8) of the Act is not issued by him or her.

Registration of transfer of ownership and registration of other rights in respect of parts of buildings

12. (1) The registrar must issue simultaneously with the establishment of a body corporate in terms of section 38(1) of the Act a certificate in the form of Form 9 in Annexure 1, but on application made by a body corporate in respect of which the certificate has not been issued prior to the commencement of the Act, the registrar may issue the certificate after the date of establishment of the body corporate.

(2) A conveyancer concerned must prepare a draft certificate in the form referred to in subregulation (1) and lodged it with the registrar in duplicate.

(3) The -

(a) original certificate referred to in subregulation (1) is filed in the sectional title file; and

(b) duplicate is delivered to the conveyancer concerned.

(4) Once a certificate in terms of subregulation (1) has been issued, no further such certificate may be issued in respect of the building concerned, but if required, the registrar may issue a copy of the original certificate, certified by him or her as a true copy of the original.

(5) The deed of transfer referred to in section 17(1)(a) of the Act is in the form of Form 10 in Annexure 1.

(6) An application referred to in section 17(5) of the Act is in the form of Form 11 in Annexure 1.

(7) A certificate of registered sectional title referred to in section 17(5) of the Act is in the form of Form 12 in Annexure 1.

Conveyancer must prepare deeds and sign certificate

13. (1) Every deed of transfer, certificate of title, certificate of registration or sectional mortgage bond is prepared by a conveyancer or other person authorised by any law who must make and sign a certificate in the upper right hand corner on the first page of the document concerned in the form below:

“Prepared by me

.....

CONVEYANCER/OTHER AUTHORISED PERSON

Note: 1. *Omit particulars not applicable and amend where necessary.*
2. *Surname and initials must be in block letters.”.*

(2) Subject to subregulation (3) -

(a) a conveyancer or other person authorised by any law who prepares a deed of transfer, certificate or sectional mortgage bond referred to in subregulation (1) must initial all alterations or interlineations in the deed of transfer, certificate or sectional mortgage bond and every page not requiring a signature; and

- (b) the registrar may not accept a deed of transfer, certificate or sectional mortgage bond for execution or registration, if it does not bear the certificate and is not so initialled.

(3) If in the case of a deed of transfer, certificate or sectional mortgage bond referred to in subregulation (1), an alteration or interlineation is not initialled as contemplated in subregulation (2), the alteration or delineation may be initialled by the conveyancer executing the deed of transfer, certificate or sectional mortgage bond if, in the opinion of the registrar, the initialling by the conveyancer who prepared the deed of transfer, certificate or sectional mortgage bond is not required.

Certificate by legal practitioner, notary, conveyancer or authorised person

14. (1) Subject to subregulations (3) and (4), a power of attorney, application or consent required for the performance of an act of registration in a deeds registry and tendered for registration or filing of record in a deeds registry is prepared by a practicing legal practitioner, notary, conveyancer or other person authorised by any law who must make and sign a certificate in the upper right hand corner on the first page of the document concerned in the form below:

“Prepared by me

.....

LEGAL PRACTITIONER/NOTARY/CONVEYANCER/OTHER AUTHORISED PERSON

Note: 1. Omit particulars not applicable, and amend where necessary.
2. Surname and initials in block letters.”.

(2) A person who has prepared a document referred to in subregulation (1) must initial any alteration or interlineation in the document.

(3) Subregulation (1) does not prevent a legal practitioner, notary or conveyancer or other person authorised by any law in the employ of the State from preparing in the course of his or her employment any document mentioned.

(4) If a certificate referred to in subregulation (1) is signed by a legal practitioner or notary, the fact that the signatory is a practicing legal practitioner or notary is confirmed by a practicing conveyancer who must countersign the certificate by making and signing the following certificate:

“Countersigned by me

.....

CONVEYANCER

.....

(Surname and initials in block letters)”.

Acceptance of responsibility

15. The person preparing and signing the documents referred to in regulation 13(1) and 14(1) accepts responsibility for the correctness of the facts stated in the deeds or documents concerned or which are relevant in connection with the registration or filing to the effect that -

- (a) all copies of the deeds or documents intended for execution or registration are identical at the date of lodgement;

- (b) in the case of a deed of transfer, certificate of title or certificate of registration, all the applicable conditions of title have been correctly brought forward in that deed of transfer, certificate of title or certificate of registration;
- (c) in the case of a document referred to in regulation 14(1) signed by a person in his or her capacity as executor, administrator, trustee, tutor, curator, liquidator or judicial manager from the perusal of documents evidencing the appointment exhibited to him or her, the person has in fact been appointed in that capacity and acts in accordance with the powers granted to him or her and that any surety required has been furnished to the Master of the High Court;
- (d) to the best of his or her knowledge and belief and after due enquiry has been made -
 - (i) the names, identity number or date of birth and marital status of any natural person being a party to a deed or document and in the case of any other person or a trust, its name and registered number, if any, of the person or trust, are correctly reflected in that deed or document;
 - (ii) in the case of a document referred to in regulation 14(1) -
 - (aa) the necessary authority has been obtained for the signing of the document in a representative capacity on behalf of a company, close corporation, trust, church, association, society or other body of persons or an institution;
 - (bb) the transaction as stated, is authorised by and in accordance with the constitution, regulation, founding statement or trust instrument of a trust, of any church, association, close corporation, society, trust or other body of persons, or any institution other than a company being party to the document; or
- (e) if the person signs the preparation certificate on a deed of transfer, certificate of title, certificate of registration or a sectional mortgage bond, the person accepts responsibility that the particulars in the deed referred to in paragraph (d)(i) have been brought forward correctly from the special power of attorney or application.

Dealings with common property

16. (1) Simultaneously with the registration of a transfer referred to in section 19(3) (a) or 21(6) of the Act, the registrar must make an endorsement under his or her signature on the schedule of conditions referred to in section 11(3)(b) of the Act.

(2) A sectional title deed registered pursuant to section 19(3) or 21(6) of the Act must simultaneously be re-registered as a deed of transfer under the Deeds Registries Act in the form of Form 13 in Annexure 1.

(3) The registrar must register a cession of a servitude or other real right in terms of section 21 of the Act by virtue of a deed of cession in the form of Form 14 in Annexure 1.

Draft sectional plan of subdivision

17. Regulation 2 applies with the necessary changes to a draft sectional plan of subdivision.

Registration of subdivision of section

18. (1) An application for registration of a sectional plan of subdivision is in the form of Form 15 in Annexure 1.

(2) When registering a sectional plan of subdivision under section 23(3) of the Act, the registrar must allot a distinctive number to it and endorse the number on the plan.

(3) The certificate of registered sectional title referred to in section 23(5) of the Act is in the form of Form 16 in Annexure 1.

(4) If the registrar has issued a sectional title deed under section 23(5) of the Act in lieu of the sectional title deed referred to in section 23(2) of the Act, the registrar must cancel the last mentioned sectional title deed.

(5) The registrar must furnish the local authority concerned with a copy of the registered sectional plan of subdivision.

Draft sectional plan of consolidation

19. Regulation 2 applies with the necessary changes to a draft sectional plan of consolidation.

Registration of consolidation of sections

20. (1) An application for registration of a sectional plan of consolidation is in the form of Form 15 in Annexure 1.

(2) When registering a sectional plan of consolidation under section 24(3) of the Act, the registrar must allot a distinctive number and endorse the number on the plan.

(3) The certificate of registered sectional title referred to in section 24(5) of the Act, must be in the form of Form 17 in Annexure 1.

(4) If the registrar has issued a sectional title deed under section 24(5) of the Act in lieu of the sectional title deeds referred to in section 24(2)(b) of the Act, the registrar must cancel the last mentioned sectional title deeds.

(5) The registrar must furnish the local authority concerned with a copy of the registered sectional plan of consolidation.

Draft sectional plan for extension of section

21. Regulation 2 applies with the necessary changes to a draft sectional plan of extension of a section.

Registration of extension of section

22. (1) An application for registration of a sectional plan of extension of a section is in the form of Form 15 in Annexure 1.

(2) When registering a sectional plan of extension of a section under section 25(6) of the Act the registrar must allot a distinctive number and endorse the number on the plan.

(3) The registrar must furnish the local authority concerned with a copy of the registered sectional plan of extension of a section.

Draft sectional plan for extension of development scheme

23. Regulation 2 applies with the necessary changes to a draft sectional plan of extension of a development scheme.

Registration of extension of development scheme

24. (1) An application for registration of a sectional plan of extension of a development scheme is in the form of Form 15 in Annexure 1.

(2) When registering a sectional plan of extension of a development scheme under section 26(17) of the Act, the Registrar must allot a distinctive number and endorse the number on the plan.

(3) The certificate of registered sectional title referred to in section 26(17)(c) of the Act is in the form of Form 4 in Annexure 1.

(4) The registrar must furnish the local authority concerned with a copy of the registered sectional plan of extension of a development scheme.

Draft sectional plan for extension of common property

25. Regulation 2 applies with the necessary changes to a draft sectional plan of extension of the common property.

Registration of plan of extension of common property

26. (1) An application for registration of a sectional plan of extension of the common property is in the form of Form 15 in Annexure 1.

(2) When registering a sectional plan of extension of the common property under section 27(6) of the Act, the registrar must allot a distinctive number and endorse the number on the plan.

(3) The registrar must furnish the local authority concerned with a copy of the registered sectional plan of extension of the common property.

Exclusive use areas

27. (1) The exclusive use areas referred to in section 7(3)(f) of the Act, are numbered and described in separate paragraphs in the certificate of real rights referred to in section 12(1)(e)(ii) of the Act, if there is more than one such area.

(2) Simultaneously with the transfer of a right to an exclusive use area referred to in section 28(10) and 61(3) of the Act, the registrar must -

- (a) make an endorsement under his or her signature on the schedule of conditions referred to in section 11(3)(b) of the Act; and
- (b) notify the Surveyor-General accordingly.

(3) Subregulation (1) applies with the necessary changes to a transfer, cancellation or mortgage of any exclusive use area.

Certificate of real right

28. The registrar may not issue a certificate of real right as contemplated in section 26(11) or section 28(7) of the Act, unless a conveyancer certifies that -

- (a) no unit in the development scheme has been alienated; or
- (b) if a unit has been alienated, the developer has stated to the owner that application has been made for the issuing of a certificate of real right in terms of section 26(11) and section 28(7) of the Act.

Substitution of, addition to, amendment or repeal of rules

29. (1) After a resolution has been taken by a body corporate to substitute, add to, amend or repeal rules as contemplated in section 37(4) of the Act, the body corporate must cause Form 18 in Annexure 1 to be duly completed by two trustees.

(2) The form referred to in subregulation (1), together with the text of the new rules, is delivered to or sent by registered post to the registrar within 14 days after the resolution has been taken.

Destruction of or damage to building and transfer of interest

30. (1) When a building or buildings are deemed to be destroyed as contemplated in section 51 of the Act and a development scheme has been authorised as provided for in section 51(3) of the Act, the body corporate must notify the registrar accordingly in the form of Form 19 in Annexure 1.

(2) A notification referred to in subregulation (1) is accompanied by -

- (a) a schedule referred to in section 7(3)(g) of the Act which excludes reference to any section which has been destroyed; and
- (b) the affected title of the owner of the unit or holder of any real rights together with the consent of the holder of any mortgage bond or holder of any real rights for disposal.

(3) The registrar must effect the transfer of the interest of the owners referred to in section 51(3)(b) of the Act by making appropriate endorsements on the relevant deeds.

(4) The registrar must advise the Surveyor-General and the local authority concerned of any registration pursuant to section 51 of the Act, which advice is accompanied by -

- (a) a copy of the schedule referred to in subregulation (2), in the case of the local authority; and
- (b) by the original of the schedule, in the case of the Surveyor-General.

(5) On receipt of any advice referred to in subregulation (4), the Surveyor-General must make the required amendments and endorsements on the sectional plan and the deeds registry copy thereof.

Sectional mortgage bonds

31. A sectional mortgage bond hypothecating -

- (a) a unit held under a sectional title deed;
- (b) an exclusive use area; or
- (c) the right to extend a development scheme held under a certificate of real right, is -
 - (i) in the form of Form 20 in Annexure 1;
 - (ii) prepared by a conveyancer and signed by the mortgagor or his or her duly authorised agent, in the presence of a conveyancer; and
 - (iii) in the form suitably adapted when hypothecating land held under a sectional title deed or a registered notarial lease or sublease or other registered real right.

Fees of office

32. (1) The fees of office to be charged in respect of any act, matter or thing required to be done in or in relation to a deeds registry in terms of the Act are set out in Annexure 2.

(2) The fees of office to be charged in respect of any act, matter or thing required or permitted to be done in relation to the office of the Surveyor-General are set out in Annexure 3.

(3) The fees of office referred to in subregulations (1) or (2) are paid in cash, by postal order, cheque or in such other manner determined by the Registrar or Surveyor-General.

Tariff of conveyancing, notarial and other legal practitioners fees

33. The fees and charges of -

- (a) conveyancers and notaries public in connection with the preparation, passing and registration of deeds or other documents registered or filed or intended for registration or filing in a deeds registry; and
- (b) any other legal practitioners in connection with the preliminary work required for the purpose of any such deed or other document,

in terms of the Act are set out in Annexure 4, but the registrar may tax a bill for wasted costs and the fees allowed in connection with the wasted costs are in the discretion of the registrar.

Fees to be paid to land surveyors and architects

34. (1) The fees to be paid to a land surveyor or an architect for preparation of a draft sectional plan or sectional plan or other plan are set out in Annexure 5.

(2) The Surveyor-General must perform, in cases of dispute, all the functions of a taxing master of the court in relation to fees charged by land surveyors or architects for performing acts which may be performed under the Act by land surveyors or architects in connection with the preparation of any draft sectional plan, sectional plan or other plan.

(3) An account submitted for taxation -

- (a) discloses the items by virtue of which the amounts stated are claimed, and is drawn in accordance with the form as approved by the Surveyor-General; and

- (b) is accompanied by a signed written statement by the disputing party setting out the items disputed.

Endorsement or entries on registered deeds or other documents or in registers

35. Endorsements or entries required by these regulations to be made on registered deeds or other documents or in registers -

- (a) may be made by means of a rubber stamp or in handwriting or typewriting, and
- (b) is signed and dated by the registrar, who -
 - (i) must below his or her signature state the office held by him or her; and
 - (ii) must initial any alteration or interlineation or an endorsement or entry.

Powers and duties of arbitrators and procedures to be followed in arbitration proceedings

36. The Arbitration Act, 1965 (Act No. 42 of 1965), in so far as it is not inconsistent with the Act, applies with the necessary changes with reference to the powers and duties of arbitrators appointed under section 58(1) of that Act and the procedure to be followed in arbitration proceedings under that Act.

Files for conveyancers

37. (1) Every conveyancer must keep in his or her file the respective documents set out in Annexure 6 in respect of the following transactions -

- (a) the transfers of ownership and other rights in terms of section 17(1) of the Act;
- (b) the transfers of ownership in terms of sections 19(3), 21(6) and 36(4) of the Act; and
- (c) the sectional mortgage bonds referred to in section (17)(1)(c) of the Act in respect of which he or she has signed the bond as the preparer.

(2) A conveyancer who has prepared the documents referred to in subregulation (1) must retain the file concerned with the documents concerned relating to the transaction concerned for a period of at least 6 years after the date of registration of a document.

(3) Every conveyancer must take the reasonable precautions for the safe custody of the file referred to in subregulation (2) he or she thinks necessary.

Certified copies

38. (1) A certified copy of an approved sectional plan -

- (a) may only be issued by the Surveyor-General; and
- (b) may not be issued prior to the registration,

unless, subject to subregulation (2), the written consent of the architect or the land surveyor concerned or any person legally entitled to act on behalf of the architect or the land surveyor, is produced to the Surveyor-General.

(2) The written consent referred to in subregulation (1) is not required if the Surveyor-General has been supplied with proof that the architect or the land surveyor concerned has

unreasonably withheld his or her consent or has failed to respond in a reasonable time to a notice requesting authorisation for the issue of a certified copy.

Examination in connection with preparation of sectional plans

39. (1) The syllabus for the examination referred to in section 7(2)(a) of the Act consists of -

- (a) comprehensive knowledge of all matters provided for by the Act and these regulations;
- (b) knowledge of all matters relating to the registration or cancellation of real rights in land in respect of grants, transfers, leases, subdivisions, consolidations, servitudes, mortgage bonds, buildings regulations as determined by the Surveyor-General and town planning schemes; and
- (c) comprehensive knowledge of all matters relating to the duties, responsibilities and professional conduct of land surveyors and architects as provided for in the Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act, 1993 (Act No. 32 of 1993) and the Architects' and Quantity Surveyors' Act, 1979 (Act No. 13 of 1979).

(2) There is established a committee to be known as the Sectional Titles Examination Committee which consists of the following members -

- (a) the Surveyor-General, who is the chairperson;
- (b) one person nominated by the Namibian Council for Professional Land Surveyors and Technical Surveyors and who is appointed by the Minister; and
- (c) one person nominated by the Namibian Council for Architects and who is appointed by the Minister.

(3) All meetings of the Committee are held at the date, time and place as the Chairperson may determine.

(4) Two members of the Committee form a quorum for any meeting.

(5) The Committee may determine the procedure of its meetings.

(6) A resolution of the Committee in writing and signed by at least two members is valid where no meeting was held to pass the resolution.

(7) The functions of the Committee in respect of the examination referred to in section 7(2)(a) are to -

- (a) appoint an examiner and a moderator;
- (b) make arrangements with the Namibian Council for Professional Land Surveyors and Technical Surveyors and the Namibian Council for Architects regarding the date, time, place, fees and other matters incidental to the conducting of the examination; and
- (c) determine the pass mark and the duration of paper.

(8) The examiner and the moderator appointed in terms of subregulation (7)(a) must make the examination results available to the Surveyor-General.

(9) If the examiner and the moderator does not agree with regard to the examination answers or the marking of the examination papers, the final decision regarding a correct answer and whether a candidate has passed the examination or not vests in the Surveyor-General.

(10) The Surveyor-General must enter the names of all land surveyors and architects who have passed the examination referred to in section 7(2)(a) of the Act into a register kept and maintained by him or her for that purpose.

Extension of period

40. The period referred to in section 61(1)(d) of the Act is extended to 30 months.

ANNEXURE 1

Form 1

SPECIMEN OF FIRST SHEET
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 2(2)(a))

(Omit particulars not applicable and amend where necessary)

Sectional Plan No. SS SHEET No 1 of SHEETS
APPROVED SG.NO.:
Registered APPROVED
Registrar of Deeds Surveyor-General
Date Date

NAME OF DEVELOPMENT SCHEME:

DESCRIPTION OF LAND ACCORDING TO DIAGRAM / GENERAL PLAN:

DIAGRAM / GENERAL PLAN No:

NAME OF LOCAL AUTHORITY:

LOCAL AUTHORITY REFERENCE NUMBER:

DESCRIPTION OF BUILDING(S):

ENCROACHMENTS ON THE LAND: YES/NO

CAVEAT IN RESPECT OF EXTENSION OF DEVELOPMENT SCHEME:

EXCLUSIVE USE AREA(S):

CERTIFICATE:

I,,
hereby certify that I have prepared sheets no's to, inclusive, of
this sectional plan from surveys performed in accordance with the Sectional Titles Act, 2009 and the
regulations.

Signed

Land Surveyor /Architect: Registration No

Address:

Date

SURVEY RECORDS:

COMPILATION:

GENERAL PLAN:

Note: Separate certificates are required when an architect is also involved.

To: The Surveyor-General
Private Bag 13343
WINDHOEK

SUBMISSION OF DRAFT SECTIONAL PLAN
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 6, Regulation 3(1))

(Omit particulars not applicable and amend where necessary)

- 1. Application is hereby made for the approval of a draft sectional plan prepared in accordance with section 9 of the Sectional Titles Act, 2009 and the following particulars are provided:
 - 1.1 Name of applicant:
 - 1.2 Postal address of applicant:
 - 1.3 Professional registration no:
 - 1.4 Local authority area:
 - 1.5 Name of development scheme:
 - 1.6 Description of land as reflected on the approved general plan/approved diagram concerned:
.....
.....

- 2. Cheque/postal order/cash in the amount of N\$ is enclosed herewith.

- 3. The survey records applicable to the determination of the boundaries of the property have been filed in the office of the Surveyor-General under reference number and are enclosed herewith.

- 4. In support of this application the following documents are submitted:
 - 4.1 The draft sectional plan comprising sheets, together with one paper copy and two copies on durable drawing material of the sectional plan concerned for the registrar of deeds.
 - 4.2 Field plan/field book.
 - 4.3 Records relating to the drafting of the draft sectional plan.
 - 4.4 Report.
 - 4.5 Certificate from the land surveyor or architect concerned that the development scheme is not in conflict with any building line restrictions appearing in the relevant title deed(s).
 - 4.6 A copy of the Schedule referred to in section 11(3)(b).

.....
Land Surveyor/Architect

Form 3

Prepared by me
LEGAL PRACTITIONER/NOTARY/CONVEYANCER

.....
(State surname and initials in block letters.)

APPLICATION FOR OPENING TITLE REGISTER
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 11(1), Regulation 6(1))

(Omit particulars not applicable, and amend where necessary)

I, the undersigned (name of developer), hereby apply
to the Registrar of Deeds, for:

1. The opening of a sectional title register in terms of section 12(1)(b) of the Sectional Titles Act, 2009, and the registration of the attached sectional plan in terms of section 12(1)(a) of that Act, in respect of the development scheme known as:
.....
Registration No and held under Title Deed No T /
2. The issue of certificates of registered sectional title in terms of section 12(1)(d) of the Act in respect of the sections shown on the abovementioned sectional plan.
3. The issue of a certificate of real right in terms of section 12(1)(e)(i) of the Act in respect of any provision of section 26(1).
4. The issue of a certificate of real right in terms of section 12(1)(e)(i) of the Act in respect of any reservation in terms of section 26(6).
5. The issue of a certificate of real right in terms of section 12(1)(e)(ii) of the Act in respect of a right of exclusive use referred to in section 28(1).
6. The issue of a certificate of real right in terms of section 12(1)(e)(ii) of the Act in respect of a right of exclusive use referred to in section 28(4).

Signed at on

.....
Signature of Developer

Witnesses
1.
2.



Form 4

Prepared by me:

.....
CONVEYANCER

.....
(State surname and initials in block letters.)

CERTIFICATE OF REGISTERED SECTIONAL TITLE
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 12(1)(d) or 26(17)(c), Regulation 7(1))

(Omit particulars not applicable, and amend where necessary)

I, the Registrar of Deeds, at hereby certify that
..... is the registered owner of a unit consisting of -

(a) Section No as shown and more fully described on Sectional Plan No. SS
..... in the development scheme known as in
respect of the land and building or buildings situated at
.....
.....
(State erf number, name of town or township/extension, local authority, registration division
and region)

of which section the floor area, according to that sectional plan, is square
metres in extent; and

(b) an undivided share in the common property in the development scheme apportioned to that
section in accordance with the participation quota as endorsed on that sectional plan.

The unit is subject to or must benefit by -

- (i) the servitudes, other real rights and conditions, if any, as contained in the Schedule of
conditions referred to in section 11(3)(b) of the Sectional Titles Act, 2009 and the servitudes
referred to in section 30 of the Sectional Titles Act, 2009; and
- (ii) any alteration to the building or buildings or to a section or to the common property shown
on that sectional plan.

Signed at on

.....
Registrar of Deeds

(Seal of Office)

Form 5

SECTIONAL TITLE FILE
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 9(1))

Sectional Title File No SS / 20

Name of development scheme:

Place where building is situated (i.e. erf number, name of town or township/extension, local authority, registration division and region):
.....
.....
.....
.....

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters.)

CERTIFICATE OF REAL RIGHT
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 12(1)(e)(i), Regulation 10(1))

(Omit particulars not applicable and amend where necessary)

WHEREAS

.....
(hereafter referred to as “the developer”), has applied for the registration of a sectional plan in terms of section 11(1) of the Sectional Titles Act, 2009;

AND WHEREAS the developer has reserved for himself or herself the right to extend the development scheme as contemplated in section 26(1) of that Act;

AND WHEREAS no reservation was made by the developer in terms of that section and the body corporate has not yet been established,

NOW THEREFORE, pursuant to that Act, I, the Registrar of Deeds at, do hereby certify that the developer or his or her successor in title is the registered holder of the right to erect and complete from time to time within a period of for his or her personal account (State which rights, i.e. section 26 (1)(a), (b) or (c), are reserved) on the specified portion of the common property as indicated on the plan referred to in section 26(2)(a) of that Act, filed in this office, and to divide the building or buildings into a section or sections and common property, and to confer the right of exclusive use over a portion of the common property upon the owner or owners of one or more units in the development scheme known as in respect of the land and building or buildings situate at

.....
(State erf number, town or township/extension, local authority, registration division and region) as shown on Sectional Plan No. SS /

Signed at on

.....

(Seal of Office)

Registrar of Deeds

Form 7

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

**CERTIFICATE OF REAL
SECTIONALTITLES ACT, 2009
(Section 26(9), Regulation 10(2))**

(Omit particulars not applicable and amend where necessary)

Whereas the right to extend the development scheme vests with the body corporate of
.....
under section 26(9) of the Sectional Titles Act, 2009.

Now, therefore, I, the Registrar of Deeds at pursuant to that Act, do hereby
certify that the body corporate is the registered holder of the right to erect and complete from time
to time

.....
(state which rights i.e. section 26(1)(a), (b) or (c) are reserved) on the specified portion of the common
property as indicated on the plan referred to in section 26(2)(a) of the Act, filed in this office, and to
divide the building or buildings into a section or sections and common property and to confer the
right of exclusive use over portions of the common property upon the owner or owners of one or
more of the units in the development scheme known as

.....
in respect of the land and building or buildings situate at

.....
(state erf no, name of town or township/extension, local authority, registration division and region)

and shown on Sectional Plan No. SS

Signed at on

.....
Registrar of Deeds

(Seal of Office)

Prepared by me

.....

CONVEYANCER

.....

(State surname and initials in block letters.)

CERTIFICATE OF REAL RIGHT: EXCLUSIVE USE AREA
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 12(1)(e)(ii), Regulation 10(3))

(Omit particulars not applicable and amend where necessary)

WHEREAS

.....
(hereafter referred to as “the developer”) has applied for the registration of a sectional plan in terms of section 11(1) of the Sectional Titles Act, 2009;

AND WHEREAS the developer has in terms of section 7(3)(f) of that Act delineated certain exclusive use areas on the sectional plan;

AND WHEREAS no reservation was made by the developer in terms of section 28(1) of that Act and the body corporate has not yet been established,

NOW, therefore, I, the Registrar of Deeds at, do hereby certify that the developer is the registered holder of the right to the exclusive use areas mentioned below forming part of the common property as delineated as such on Sectional Plan No. SS
.....in the development scheme known as

.....
and situate in

.....
(State erf number, name of town or township/extension, local authority, registration division and region) in respect of

.....
(state each type of exclusive use area separately.)

Signed at on

.....
Registrar of Deeds

(Seal of Office)

Form 9

Prepared by me

.....

CONVEYANCER

.....

(State surname and initials in block letters)

CERTIFICATE OF ESTABLISHMENT OF BODY CORPORATE
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 38(1) Regulation 12(1))

I, the Registrar of Deeds at, hereby certify that a body corporate designated as the Body Corporate of the development scheme known as

No, is deemed to be established with effect from

Signed at on

.....

(Seal of Office)

Registrar of Deeds



Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters.)

DEED OF TRANSFER
SECTIONALTITLES ACT, 2009
(Section 17(1)(a), Regulation 12(5))

Be it hereby made known:

That
appeared before me at he or she being duly authorised
thereto by a power of attorney granted to him or her by
dated the day of and signed at
..... and that the appearer declared that
.....
.....

(insert here an appropriate recital of the nature and date of the transaction or the circumstances necessitating transfer as well as the compensation paid or payable) and that he or she in his or her capacity aforementioned, did, by these presents, cede and transfer, in full and free property, to and on behalf of

.....
(Omit particulars not applicable and amend where necessary)

- 1. A unit consisting of -
 - (a) Section No as shown and more fully described on Sectional Plan No. SS in the development scheme known as
.....
in respect of the land and building or buildings situated at
.....
.....
.....

(State erf no, name of town or township/extension, local authority, registration division and region)

of which section the floor area according to that Sectional plan is square metres in extent and

- (b) an undivided share in the common property in the development scheme apportioned to that section in accordance with the participation quota as endorsed on that sectional plan.

Held by virtue of
(State type of sectional title deed(s) and the number(s) thereof)

2.
.....
.....

(Insert here the description of the land to be conveyed, the extent thereof, and comply with the regulations promulgated under the Deeds Registries Act, with reference to the extending clause and the conditions governing the unit)

3. All the rights, title and interest (insert here the share to be alienated if not the full interest) in the land and building or buildings in the development scheme known as and situated at

(State erf number, name of town or township/extension, local authority, registration division and region) which interest consists of section no in extent as shown and more fully described on Sectional Plan No. SS and undivided share/undivided shares in the common property apportioned in accordance with the participation quota as endorsed on the sectional plan.

Held by virtue of
(Omit in the event of transfer of land.)

The unit/interest is subject to or benefits by
.....
(State type of sectional title deed(s) and the number(s) thereof)

(i) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions referred to in section 11(3)(b) of the Sectional Titles Act, 2009, and the servitudes referred to in section 30 of that Act; and

(ii) any alteration to the building or buildings or to a section or to the common property shown on that sectional plan.

(Insert here the special conditions endorsed against the title deed or contained therein)
.....
.....

Wherefore all the right, title and interest which the transferor heretofore had to the abovementioned unit is renounced, and in consequence it is also acknowledged that the transferor is entirely dispossessed of, and disentitled to, the same, and that, by virtue of these presents the abovementioned transferee now is entitled thereto, the State however, reserving its rights.

Signed, executed and sealed at on

.....
q.q. (Signature of appearer)

In my presence

.....
Registrar of Deeds

Seal of Office)

Form 11

Prepared by me

.....
LEGAL PRACTITIONER / NOTARY / CONVEYANCER
(Use whichever is applicable)

.....
(State surname and initials in block letters)

THE REGISTRAR OF DEEDS

.....

**APPLICATION FOR A CERTIFICATE OF REGISTERED SECTIONAL TITLE
FOR A JOINT OWNER UNIT
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 17(5), Regulation 12(6))**

I, joint owner of ..

.....

(furnish particulars of unit)

held by me, by virtue of (state type of sectional title deed and the
number) hereby apply for a certificate of registered sectional title in respect of my.....
(state extent of the share) share in the aforementioned unit.

.....
Applicant

Witnesses

1.

2.

.....

Date and place

Form 12

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

**CERTIFICATE OF REGISTERED SECTIONAL TITLE
OF A JOINT OWNER OF A UNIT
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 17(5), Regulation 12(7))**

I, the Registrar of Deeds at, hereby certify that
.....
is the registered owner of an undivided share in a unit consisting of -

(a) Section No as shown and more described on Sectional
Plan No. SS in the development scheme known as
..... in respect of the land and building or buildings situate at
.....
.....
(State erf no, name of town or township/extension, local authority, registration division and
region) of which section the floor area, according to that sectional plan, is square
meters in extent; and

(b) an undivided share in the common property in the development scheme apportioned to the
section in accordance with the participation quota as endorsed on that sectional plan.

Held by virtue of
(state type of sectional title deed(s) and the number(s) thereof)

The unit is subject to or must benefit by -

- (i) the servitudes, other real rights and conditions, if any, as contained in the schedule of
conditions referred to in section 11(3)(b) and the servitudes referred to in section 30 of the
Sectional Titles Act, 2009; and
- (ii) any alteration to the building or buildings or to a section or to the common property shown
on that sectional plan.

(Insert here the special conditions endorsed against the title deed or contained therein)
.....
.....

Signed at on

.....
Registrar of Deeds

(Seal of Office)

Prepared by me

.....

CONVEYANCER

.....

(State surname and initials in block letters)

DEED OF TRANSFER
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 21(6), Regulation 16(2))

Be it hereby made known:

WHEREAS the land mentioned below has been expropriated by

.....

(state name of transferee and quote authority)

which land is at present registered under Sectional Title Deed No in the Deeds Registry at

AND WHEREAS a certificate referred to in section 31(4)(a) of the Deeds Registries Act, has been furnished to me by the transferee to the effect that any law in connection with the change of ownership in the land in consequence of expropriation, has been complied with.

NOW therefore by virtue of the authority vested in me by section 21 of the Sectional Titles Act, 2009, I, the Registrar of Deeds at do hereby transfer in full and free property to and in favour of

.....

(insert name of transferee)

.....

.....

(Insert here the description of the property being transferred and refer to the diagram annexed or the diagram deed and conditions of title.)

NOW therefore the registered owners are entirely dispossessed of and disentitled to that land and by virtue of this deed that transferee

.....

(insert name of transferee)

now is entitled thereto, the State however reserving its rights.

Signed at on

.....

(Seal of Office)

Registrar of Deeds

Form 14

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

DEED OF CESSION OF
(insert servitude of rights)

.....
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 21(6), Regulation 16(3))

(Omit which is not applicable and make the necessary amendments)

WHEREAS the

servitude or other right (state type of servitude or other right) has/have been expropriated by

.....
(quote authority)

over/in and upon portion/the land, comprised in the common property in the development scheme known as

No situate at

(state name of local authority)

which is/are at

present registered in the name of

(state name of holder of servitude or other right)

under

.....
(state nature of title and number);

AND WHEREAS a certificate has been furnished to me under section 32(4) of the Deeds Registries Act, by the cessionary to the effect that any law in connection with the expropriation of the.....

.....
(state servitude or other right)

has been complied with;

NOW therefore by virtue of the authority vested in me by section 21 of the Sectional Titles Act, 2009, I, the Registrar of Deeds at do hereby cede to

.....
(state name of cessionary) -

1.
(in the event of a servitude, the description or nature thereof with reference to any diagram, if applicable)

over

.....
(description and extent of land)

2.
 (in the case of other rights the description thereof) in and upon

 (description of and extent of land, with reference to diagram or sectional plan and ancillary rights,
 if any)

In witness whereof I, the Registrar, have signed this deed at on

..... (Seal of Office)
Registrar of Deeds

Form 15

Prepared by me

.....
LEGAL PRACTITIONER / NOTARY / CONVEYANCER

.....
(State surname and initials in block letters)

APPLICATION FOR REGISTRATION OF A SECTIONAL PLAN OF SUBDIVISION
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 23(1), 24(1), 25(4), 26(15) or 27(5) Regulation 18(1))

(Omit particulars not applicable and amend where necessary)

I, the undersigned

.....

do hereby apply to the Registrar of Deeds at for:

1. The registration of the attached sectional plan of subdivision of a section/consolidation of sections/extension of sections/extension of a development scheme by addition of sections/extension of the development scheme by addition of land to the common property in terms of section 23(1), 24(1), 25(4), 26(15) or 27(5) (Omit particulars not applicable) of the Sectional Titles Act, 2009, in respect of

Section No, formerly section / section No/Nos
as shown and more fully described on Sectional Plan No. SS
in the development scheme known as
in respect of the land and building or buildings situated at

.....
.....

(insert erf number, name of town or township/extension, local authority, registration division and region)

and held under
(State type of sectional title deed(s) and the number(s) thereof)

2. The issue of certificates of registered sectional title in terms of section 23(5), 24(5) or 26(17) of that Act in respect of the sections shown on that sectional plan of extension/subdivision/consolidation.

Signed at on

.....
Signature of Applicant

Witnesses
1.
2.

.....

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

CERTIFICATE OF REGISTERED SECTIONAL TITLE PLAN OF SUBDIVISION
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 23(5), Regulation 18(3))

Whereas

.....
has applied for the subdivision of section no as shown and more fully
described on Sectional Plan No. SS in the development scheme known as ..
.....
in respect of the land and building or buildings situate at
.....
.....
(state erf no, name of town or township/extension, local authority, registration division and region)

and held under (state type of sectional title deed(s)
and the number(s) thereof) in accordance with a plan of subdivision;

And whereas the sectional plan of subdivision has been registered by me as Sectional Plan No. SS
.....;

Now, therefore I, the Registrar of Deeds at hereby certify that
aforementioned

is the registered owner of a unit consisting of -

- (a) Section No as shown and more fully
described on that sectional plan, in the development scheme known as
.....
in respect of the land and building or buildings situate at
.....
(state erf no, name of town or township/extension, local authority, registration division and
region)

of which section the floor area, according to that sectional plan is
square meters in extent; and

- (b) an undivided share in the common property in the development scheme apportioned to that
section in accordance with the participation quota as endorsed on that sectional plan.

The unit is subject to or must benefit by -

- (a) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions referred to in section 11(3)(b) and the servitudes referred to in section 30 of the Sectional Titles Act, 2009; and
- (b) any alteration to the building or buildings or to a section or to the common property shown on that sectional plan.

(Insert here the special conditions endorsed against the title deed or contained therein)

.....
.....

Signed at on

.....

(Seal of Office)

Registrar of Deeds

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

CERTIFICATE OF REGISTERED SECTIONAL TITLE
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 24(5), Regulation 20(3))

Whereas

..... has applied for the consolidation of his or her section no's as shown and more fully described on Sectional Plan No. SSin the development scheme known as

.....
in respect of the land and building or buildings situate at

.....
.....
.....
(insert erf no, name of town or township/extension, local authority, registration division and region)

and held under
(state type of sectional title deed(s) and the number(s) thereof)

in accordance with a sectional plan of consolidation;

And whereas the plan of consolidation has been registered by me as Sectional Plan No. SS
.....
.....,

Now, therefore, I, the Registrar of Deeds at hereby certify that the aforementioned is the registered owner of a unit consisting of -

(a) Section No as shown and more fully described on the aforementioned sectional plan, in the development scheme known as

.....
in respect of the land and building or buildings situate at

.....
.....
.....
(Insert erf no, name of town or township/extension, local authority, registration division and region)

of which section the floor area, according to that sectional plan is square meters in extent; and

(b) an undivided share in the common property apportioned to that section in accordance with the participation quota as endorsed on that sectional plan.

The unit is subject to or must benefit by -

- (a) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions referred to in section 11(3) and the servitudes referred to in section 30 of the Sectional Titles Act, 2009; and
- (b) any alteration to the building or buildings or to a section or to the common property shown on that sectional plan.

(Insert here the special conditions endorsed against the title deed or contained therein)

.....
.....

Signed at on

.....

(Seal of Office)

Registrar of Deeds

Registrar’s number of Sectional Plan SS

Registrar of Deeds
.....

NOTIFICATION UNDER SECTION 37(7)
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 29(1))

(Omit particulars not applicable and amend where necessary)

We,

.....

and

.....

(only two trustees required to sign),

the undersigned trustees of the body corporate of the development scheme known as

.....

No situate at

.....

.....

(state erf no, name of town or township/extension, local authority, registration division and region)

hereby give notice that on the Body Corporate made the rules set out in the Schedule which have been initialed by the trustees for the purpose of identification, for the control and management of the buildings:

- (a) Management Rules in substitution of, in addition to or withdrawal of, or amending the existing rules.
- (b) Conduct Rules in substitution of, addition to, or withdrawal of, or in amendment of the existing rules.

The rules referred to in paragraph (a) have been made by unanimous resolution of the members of the body corporate.

The rules referred to in paragraph (b) have been made by special resolution of the body corporate.

Address:

.....

.....

Trustee

Trustee

Date

.....

Form 19

Registrar of Deeds
.....

NOTIFICATION OF DEMOLITION OF A BUILDING
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Section 30(1), Regulation 30(1))

(Omit particulars not applicable and amend where necessary)

We,

.....
and
.....

the undersigned trustees of the Body Corporate of the development scheme known as

No, situate at

.....
.....
(state erf no, name of town or township/extension, local authority, registration division and region)

hereby give notice in terms of section 51 of the abovementioned Act that the building or buildings have been damaged or are deemed to have been destroyed as contemplated in section 51(1) of the Act, on account of

.....
.....
(state why building or buildings are damaged or deemed to be destroyed)

and that the owners by an unanimous resolution/order of court have been authorised to rebuild and reinstate in whole/or in part the building or buildings and to transfer the interest of owners whose sections have been wholly or partly destroyed to the other owners.

The following documents are attached -

- (a) a copy of the unanimous resolution, certified by us; or
- (b) a copy of the order of court certified by the registrar of the court.

Address:

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

Trustee

Trustee

Date

.....

Prepared by me

.....
CONVEYANCER

.....
(State surname and initials in block letters)

**SECTIONAL MORTGAGE BOND HYPOTHECATING A UNIT / AN EXCLUSIVE
USE AREA / THE RIGHT TO EXTEND A DEVELOPMENT SCHEME / OTHER
REGISTERED REAL RIGHTS**

SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)

(Regulation 31)

(Omit particulars not applicable and amend where necessary)

I, the undersigned

.....
(hereafter referred to as the mortgagor),
do hereby declare myself to be lawfully indebted and bound to

.....
(hereafter referred to as the mortgagee)
in the amount of (in words and figures)

.....
and the amount of (in words and figures)

.....
being the additional amount referred to in the condition annexed, arising from and being
..... (insert the cause of bond)
and as security for the above, I hereby bind as a mortgage,
(insert ranking of bond), subject to the conditions set out in the annexure to this bond:

1. A unit consisting of -

(a) Section no as shown and more fully described on Sectional Plan No.
SS in the development scheme known as
..... in respect of the land and building or buildings situate at
.....
.....

(State erf no, name of town or township/extension, local authority, registration division and region)

of which the floor area, according to that sectional plan, is square meters in extent; and

(b) an undivided share in the common property in the development scheme apportioned to that section in accordance with the participation quota as endorsed on that sectional plan.

Held under (state type of sectional title deed(s) and the number(s) thereof)

.....
.....

2. An exclusive use area described as

 No measuring
 being as such part of the common property, comprising the land and the development scheme
 known as

 in respect of the land and building or buildings situate at

 (State erf no, name of town or township/extension, local authority, registration division and
 region)
 as shown and more fully described on Sectional Plan No. SS held under
 Certificate of Real Right/Notarial Deed of Cession No SK

3. The right to erect and complete from time to time within a period of
 for my/our/its personal account (State which right, i.e. of section 26(1)
 (a), (b), (c)) on the specified portion of the common property as indicated on the plan, as
 referred to in section 26(2)(a) of the Act, and to divide the building or buildings into a section
 or sections and common property and to confer the right of exclusive use over portion of the
 common property upon the owner or owners of one or more sections in respect of the land
 described as

 and in the development scheme known as

 in respect of the land and building or buildings situate at

 (State erf no, name of town or township/extension, local authority, registration division and
 region)
 and shown on Sectional Plan No. SS and held under Certificate of Real
 Rights/Notarial Deed of Cession No SK

Signed at on

.....
 Mortgagor / or his or her duly authorised agent

Before me
 Conveyancer
 Registered at on

.....
Registrar of Deeds

Seal of Office

(The annexure to the bond must be signed by the mortgagor and the conveyancer at the end thereof,
 and if it consists of more than one page, each additional page must be initialed by both of them. The
 form must be adapted if other real rights are mortgaged: Follow the description of the real right as it
 appears on the title of the right.)

ANNEXURE 2

FEES OF OFFICE: DEEDS REGISTRY
SECTIONAL TITLE ACT, 2009 (ACT NO. 2 OF 2009)
 (Regulation 32(1))

	N\$
1. For the opening of a sectional title register-	
(a) for the main file	300-00
(b) for each sub-file	55-00
2. For the registration of a sectional plan, a plan of subdivision of a section, a plan of consolidation of sections, a plan in respect of the extension of sections, a plan in respect of extension of schemes and a plan of exclusive use areas	300-00
3. For the cancellation of the registration of any sectional plan or exclusive use area	100-00
4. For the registration of a deed transfer	300-00
5. For the registration of a bond securing immovable property	300-00
6. For the registration of any notarial lease	300-00
7. For the registration of any notarial cancellation or modification of any notarial lease	300-00
8. For the registration of a certificate of registered sectional title	300-00
9. For the registration of a deed of cession	300-00
10. For the registration of a notarial bond or a cession of a bond	300-00
11. For the registration of any notarial sublease and any notarial cession of any notarial lease or sublease	300-00
12. For the registration of any notarial cancellation or modification of a notarial lease	300-00
13. For the cancellation of the registration of any notarial lease or sublease which has lapsed by effluxion of time, on production of proof that the notarial lease or sublease has so lapsed	150-00
14. For the cancellation or modification of a real right embodied in a notarial deed	150-00
15. For each act of registration in relation to a sectional mortgage bond, of-	
(a) a cancellation;	
(b) a cancellation of a cession;	

	(c) a modification referred to in section 17(1)(c) of the Act	150-00
16.	For the cancellation of the registration of a section and the amendment of the sectional plan accordingly in terms of section 19(4) of the Act	150-00
17.	For the cancellation of sectional deeds when the whole of land is transferred as referred to in section 19 of the Act, for each sectional title deed cancelled	150-00
18.	To revert land transferred pursuant to section 19 of the Act to the land register, including the noting of the reversion of the registered sectional plan and on the transferee's certificate of registered sectional title and the issue to the transferee of a certificate of registered title; and if more than 10 sectional title deeds have to be cancelled as referred to in section 19(17) of the Act, for each such title deed above 10	550-00
19.	For endorsing on a developer's sectional title deeds the fact of the alienation in one transaction of the whole of the developer's interest in land and the building or buildings thereon or of a share in the whole of such interest, for each endorsement	100-00
20.	For the making of a reference on the schedule referred to in section 11(3)(e) of the Act to special rules made for the control and management of a building or the addition, amendment or repeal of any rule	130-00
21.	For the making of an entry on a sectional plan of a notification referred to in section 52(1) of the Act	50-00
22.	For the making of an endorsement referred to in section 52(4) of the Act on the registered sectional plan and on the sectional title deeds of the owner of land-	
	(a) on the registered sectional plan	50-00
	d) on each sectional title deed	50-00
23.	For a report to the court in connection with any application or action made by the registrar	250-00
24.	For a certified copy of-	
	(a) a deed, bond or document filed of record in a deeds registry and issued in terms of regulation 51 or 52 of the Deeds Registries Act, per deed, bond or document	100-00
	(b) a deed filed of record in a deeds registry and issued in terms of regulation 53 of the Deeds Registries, 1937 (Act No 47 of 1937), per deed	500-00
25.	For the registration of any notarial deed not provided for in this Annexure	100-00

26.	For any endorsement, note or act of registration not provided for	50-00
27.	For the issue of a certificate compiled by the registrar on request from information contained in the registers or records preserved in the deeds registry, per certificate	100-00
28.	(a) For a search of any index to any register for each enquiry relating to a person, property or deed	20-00
	(b) for obtaining a computer print or transmission by facsimile of copies for each enquiry relating to a person, property or deed	20-00
	(c) for inspection of any one deed, document or folio, including any continuation thereof, of any register of the documents relating to any one property	20-00
	(d) for inspection of any one file	20-00
	(e) for any continuous search for information for each hour or part thereof	150-00
	(f) for any search not specially provided for, a fee to be determined by the registrar, provided that the minimum fees are be:	20-00
29.	For furnishing to a local authority council or a regional council or any private stakeholder, or a parastatal or organ of the state a return containing particulars of properties transferred or mortgage bonds, per property contained in such return	10-00
30.	For the taxation of a bill of fees: 5 per cent (5%) of the fees allowed; excluding any disbursements for transfer duty, stamp duty and fees of office	

EXEMPTION:

No fees of office are payable in respect of the recording or writing off referred to in section 3(1)(w) of the Deeds Registries Act

ANNEXURE 3

FEES OF OFFICE: SURVEYOR GENERAL
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 32(2))

	N\$
1. (a) For the examination , approval and certification of a sectional plan, including the additional copies thereof as may be prescribed by law	300-00
(b) For the examination, approval and certification of a plan which has been rejected by the Surveyor-General and re-lodged by the land surveyor or the architect, as the case may be	250-00
2. (a) For the examination, approval and certification of a diagram of exclusive use area, irrespective of the number of copies required	200-00
(b) For the examination, approval and certification of a diagram which has been rejected by the Surveyor-General and re-lodged by the land surveyor	50-00
3. For certifying a copy of a diagram of exclusive use area or sectional plan submitted for certification, per sheet	75-00
4. For faxing information on an A4 size sheet	20-00
5. For the preparation of a report or statement intended to be used in legal proceedings.	250-00
6. For any work or service not specified in this Annexure	100-00

ANNEXURE 4

**TARIFF OF CONVEYANCING, NOTARIAL AND OTHER
LEGAL PRACTITIONERS FEES**
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 33)

General

1. (1) The fees specified in this Tariff include the fees for all correspondence and also include the fees for -

- (a) the taking and giving of instructions, including the perusal of deeds of sale;
- (b) the preparation and attendance on signature of powers of attorney, declarations, affidavits, conveyancers' certificates, resolutions and other necessary preliminary and ancillary documents;
- (c) the payment of transfer duty and of any moneys due to the body corporate;
- (d) the obtaining or making of all clearance or other certificates;
- (e) the obtaining of endorsements or copies of documents from the office of the Master or other public offices;
- (f) the perusal of memoranda and articles of association, constitutions, identity documents and trust deeds;
- (g) the making of all necessary financial arrangements, including the provision and checking of guarantees and attending on payment in terms thereof;
- (h) the drawing and preparation of any document, including all copies thereof, required for execution or registration at a deeds registry and the obtaining of registration thereof, arranging simultaneous lodgement and registration with another conveyancer or other conveyancers, where necessary;
- (i) the giving of all references required by the deeds registry; and
- (j) all attendances at the deeds registry,

but does not include -

- (i) any attendance in connection with the drawing and execution of deeds of sale, deeds of donation, partition agreements, amendments to the rules for bodies corporate, special developers conditions, deeds of suretyship, acknowledgements of debt, rules for the body corporate or documents of a similar nature;
- (ii) any separate act or registration of any other documents which may be necessary before or in connection with the act of registration;
- (iii) any attendance in connection with the resolution of a dispute between the transferor and the transferee arising from a deed of sale or any of the other documents referred to in paragraph (aa) or from whatsoever cause; and
- (iv) any attendance arising from negotiations between the parties resulting in a further agreement or addendum or amendment to an existing agreement.

(2) If the work necessary to perform any act under the Act or these Regulations is partly performed by one legal practitioner, conveyancer, or notary (hereafter called “the instructed” legal practitioner, conveyancer, or notary), on the instructions received from another legal practitioner, conveyancer, or notary (hereafter called “the instructing” legal practitioner, conveyancer, or notary), both the instructed and instructing legal practitioner, conveyancer or notary are entitled to a fee, apportioned as set out in the relevant Part in item 2 and payable out of the total fee.

(3) If this Tariff provides for a specific or proportionate fee for lodgement, the fee is the fee payable by the instructing legal practitioner, conveyancer, or notary to the instructed legal practitioner, conveyancer, or notary, for all attendances in connection with the lodgement (and where necessary, registration), of any document, including arranging simultaneous lodgements, giving necessary references and all other attendances and correspondence in connection with the lodgement and registration and is payable out of the total fee.

(4) For the purpose of this tariff -

(a) “a folio” means a 100 printed or written words or figures or part thereof, and four figures are deemed to be one word;

(b) “value of the property” means -

(i) if transfer duty is payable, the purchase price of the property or the amount on which transfer duty is payable, whichever amount is the higher;

(ii) if no transfer duty is payable in terms of section 9(2) of the Transfer Duty Act, 1993 (Act No. 14 of 1993), the purchase price of the property or the declared value as determined under that Act, whichever amount is the higher;

(iii) if no transfer duty is payable in terms of any provision of section 9 of the Transfer Duty Act, 1993, other than section 9(2), but an official valuation (be it from a regional council, village council, town council or municipal council or from the Master of the High Court), is available, the valuation or the consideration paid, whichever amount is the higher, provided that if no official valuation is available, it is considered to be the fair value of the property as defined in the Transfer Duty Act, 1993;

(iv) where no consideration is payable in respect of the acquisition of the property and no regional council, village council, town council or municipal council or other official valuation is available, the value is deemed to be not less than N\$50 000;

(v) the Local Authority valuation if available, alternatively the fair market value where the property has either been sold in execution, or by public auction at the instance of a liquidator or trustee and the purchase price was less than the valuation.

Fees

2. The fees and charges payable to conveyancers, notaries public and other legal practitioners are as follows:

Part 1: Application for the opening of a sectional title register

(a) For preparing and drawing an application for the opening of a sectional title register, perusing sectional plan, drawing certificates of registered sectional title,

correspondence and attendance on all matters referred to in section 11 of the Act, but excluding the drawing of the consents of bondholders or holders of other real rights, or searches in a deeds registry or other public office or of the rules of the body corporate:

- | | | |
|------|------------------|----------|
| (i) | A basic fee of | N\$1 800 |
| (ii) | For each section | N\$180 |
- (b) Apportionment of the fees set out in this Part:
- | | | |
|-----|--|---------|
| (i) | For lodgement | 20% |
| | Plus for each section | N\$40 |
| | Provided that if the instructed conveyancer also draws the certificate of registered sectional title, for each section | N\$ 150 |
- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (b) (i) of this Part, also issues a certificate referred to in section 11(3)(b) of the Act, he or she is in addition to the fee prescribed in that paragraph, entitled to a further sum out of the total fee assessed according to the length and complexity of the search in question and in consultation with the instructing legal practitioner.

Part II: Transfer of ownership

- (a) For registration of transfer of ownership of a unit or land held under sectional title deed, the fee is as set out in Column B of Schedule 1 to this Tariff in respect of the purchase price or value of the transaction as shown in Column A of that Schedule: Provided that in the case of a conveyance in terms of which a certificate is issued by the appropriate governmental or other institution to the effect that the property in question is of a low cost housing nature, the fee is 50% of the amount set out in Column B of Schedule 1.
- (b) For more than one section included in the same transaction, for each additional section an additional fee of N\$50

(Note: If transfer of ownership is registered as a result of expropriation under any law or if a person becomes entitled to deal with a unit or land as if he or she had taken formal transfer into his or her name by virtue of an endorsement by the Registrar, the fee is 60% of the relevant amount set out in Column B of Schedule 1.)

- (c) Apportionment of the fees set out in this Part:
- | | | |
|------|--|-----|
| (i) | For lodgement, of the total fee | 20% |
| (ii) | If the instructed conveyancer, in addition to the work contemplated in paragraph (c) (i) of this Part, also prepares the deed of transfer referred to in section 17(10) of the Act, the conveyancer is in addition to the fee prescribed in that paragraph entitled to a further 50% of the total fee. | |

Part III: Partition transfers

- (a) For the drawing and registration of each deed of partition transfer, including all preliminary and other work in connection therewith, but excluding attendances in connection with the framing of any provisional agreement N\$1 800

- (b) For more than one section or subdivision transferred in any one deed of transfer, for each additional section or subdivision an additional fee of N\$50
- (c) Apportionment of the fees set out in this Part:
- (i) For lodgement, of the total fee 20%
- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (c) (i) of this Part, also prepares the deed of transfer referred to in section 17(1) of the Act, the conveyance is in addition to the fee prescribed in that paragraph entitled to a further 50% of the total fee.

Part IV: Transfer by endorsement in terms of Administration of Estates Act, 1965

- (a) For drawing all necessary documents, obtaining necessary ancillary documents, consents and certificates from the Master or Registrar of the High Court, and all necessary attendances and correspondence in connection therewith, including obtaining registration N\$ 550
- (b) Apportionment of the fees set out in this Part:
- For lodgement 20%

Part V: Subdivision, consolidation and extension of sections or schemes

- (a) For drawing and submitting an application for sub-division and preparing certificates of registered sectional title, together with supporting documents, perusing plan of subdivision or consolidation, obtaining registration, correspondence and attendance on all matters referred to in section 22 and, in the case of a subdivision of a section, section 23 of the Act, and in the case of extension of a section, sections 25,26 or 27 of the Act, but excluding the drawing of the consents of bond-holders or holders of other real rights N\$1 000
- (b) If subdivision into more than two sections is required, for each additional section N\$150
- (c) Apportionment of the fees set out in this Part:
- For lodgement 20%
- Plus for each section N\$50

Part VI: Application for sectional title deed in respect of undivided share in unit

- (a) For preparing certificate of registered sectional title in respect of undivided share, including application, correspondence and attendances on all matters referred to in section 17(5) of the Act N\$800
- (b) Apportionment of the fees set out in this Part:
- (i) For lodgement 20%

- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (b) (i) of this Part, also draws the certificate of registered sectional title, the conveyance is entitled to 50% of the total fee.

Part VII: Application for certificate of registered sectional title for portion of common property

- (a) For preparing a certificate of registered sectional title, including application in respect of a portion of land comprised in common property, correspondence and attendances on all matters referred to in section 19(3) of the Act N\$ 800
- (b) Apportionment of the fees set out in this Part:
- (i) For lodgement 20%
- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (b) (i) of this Part, also draws the certificate of registered sectional title, the conveyance is entitled to 50% of the total fee.

Part VIII: Reversion from sectional title register to land register

- (a) For attending to all matters referred to in section 19(4) and (17) of the Act:
- (i) A basic fee of N\$ 1100
- (ii) For each section N\$ 50
- (b) Apportionment of the fees set out in this Part:
- (i) For lodgement 20%
- Plus for each section N\$ 20
- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (b)(i) of this Part, also draws the documents referred to in section 19(4) and (17) of the Act N\$ 800
- Plus for each section N\$ 50

Part IX: Sectional Mortgage Bonds

- (a) For registration of any sectional mortgage bond or surety bond other than a bond referred to in paragraph (b) of this Part, including the drawing of all necessary documents and the obtaining of necessary ancillary documents, the fee is as set out in Column B of Schedule 2 to this Tariff in respect of an amount of the bond as shown in Column A of that Schedule. Provided that for all bonds where the amount is N\$200 000 or less and a certificate is issued by the appropriate governmental or other institution to the effect that the property in question is of a low cost housing nature, the fee is 50% of the amount set out in Column B of Schedule 2 of this tariff.
- (b) For any collateral bond passed as additional security for another bond between the same parties the fee is 50% of the fee set out in column B of Schedule 2 to this Tariff.

- (c) For more than one unit included in a bond referred to in paragraph (a) or (b) of this Part, for each additional unit an additional fee of N\$ 100
- (d) For purposes of determining a fee charged under paragraph (a) of this Part, the amount of the bond on which stamp duty is being levied, must be used, and in the event of a bond exempted from stamp duty, the amount on which stamp duty would have been levied had the bond in question not been exempted, must be used.
- (e) Apportionment of fees set out in this Part:
- (i) For lodgement, of the total fee 20%
- (ii) If the instructed conveyancer, in addition to the work contemplated in paragraph (e) (i) of this Part, also signs the bond as preparer and files the same in the conveyancers' file in terms of regulation 36(1)(c), the conveyancer is in addition to the fee prescribed in that paragraph entitled to a further 40% of the total fee.

Part X: Cession, cancellation or modification of bonds

- (a) (i) For drawing consent to cancellation of a bond, consent to cancellation of cession of a bond, release of property or person from a bond, consent to reduction of cover, consent to part payment of capital, framing waiver of preference in regard to the ranking of a bond, waiver of preference in respect of real rights in land, consent of a mortgagee, usufructuary, lessee or holder of any other limited interest required by the Act or these Regulations and not otherwise provided for in this Tariff (not notarial) and attending registration thereof, including instructions, correspondence and all relevant attendances, except attendances on the Office of the Master of the High Court N\$600
- Provided that in cases where there are no financial arrangements to be made by the conveyancer, the fee is N\$400
- (ii) For attending to all matters referred to in paragraph (a)(i) of this Part in respect of any second or subsequent bond when any relevant document has been drawn by the same conveyancer who drew the corresponding document or documents in connection with the first bond between the same parties over the same property, and the documents are or can be lodged simultaneously as a set, per bond N\$100
- (iii) For every additional unit included in a release contemplated in paragraph (a)(i) or (a)(ii) of this Part after the first two units, an additional fee of N\$ 50
- (b) For drawing cession of bond or application for endorsement, including instructions and drawing consent of mortgagor where necessary, attendances on mortgagor and mortgagee, correspondence and all relevant attendances including registration, but excluding attendances on the Office of the Master of the High Court N\$ 600

- Provided that in cases where there are no financial arrangements to be made by the conveyancer, the fee is N\$400
- (c) For drawing consents to substitution under section 57 of the Deeds Registries Act, including instructions, all attendances on mortgagee and new debtor, correspondence and miscellaneous attendances, including registration, but excluding attendances on the Office of the Master of the High Court, the fee is 50% of the fees for bonds as set out in Schedule 2 of this Tariff.
- (d) If any of the documents referred to in this Part are required to be signed by more than one mortgagee, mortgagor, usufructuary, lessee or holder for any other limited interest, for each such additional person after the first, an additional fee of N\$ 60
- (e) If it is necessary to attend on the Office of the Master of the High Court in connection with any matter referred to in paragraph (a)(i) or (b) of this Part, the following additional fees are allowed:
- (i) For obtaining any Master's Certificate, per estate for any number of certificates which are or can be applied for simultaneously N\$160
- (ii) For obtaining copies of all necessary documents which are or can be included in one application, per estate N\$ 80
- (f) For drawing consents to substitutions in terms of section 24bis(3), 45(2)(b) or 45bis(2) of the Deeds Registries Act, including instruction, all attendances on mortgagee and new debtor, correspondence and miscellaneous attendances, including registration but excluding attendances on the office of the Master of the High Court N\$ 600
- Provided that in cases where there are no financial arrangements to be made by the conveyancer, the fee is N\$400
- (g) Apportionment of the fees set out in this Part:
- (i) For lodgement 20%
- (ii) For each further bond N\$ 50

Part XI: Notarial Deeds

- (a) For framing any notarial lease, sublease, servitude or other notarial deed and obtaining registration thereof, a fee assessed according to the length and complexity thereof, with a minimum fee of N\$ 750
- (b) For drawing any notarial waiver of preference by mortgagee, usufructuary, or other holder of a limited interest, or other notarial consent required under the Act or these Regulations and obtaining registration thereof N\$ 750
- (c) Apportionment of fees set out in this Part:

- (i) For lodgement, of the total fee 20%
- (ii) If the instructed notary, in addition to the work contemplated in paragraph (c)(i) of this Part, also executed the deed as notary, he or she is entitled to 50% of the total fee.

Part XII: Miscellaneous

- (a) For attendance on behalf of a transferor or transferee, mortgagor or mortgagee, supervising the registration of the transfer or bond or supervising the bond when the documents are prepared and lodged by another conveyancer, including all instructions, correspondence and miscellaneous attendances relevant to the supervision -
 - (i) if the value of the property or the amount of bond does not exceed N\$150,000.00 N\$ 150
 - (ii) if the value of the property or the amount of the bond exceeds N\$150,000.00 N\$ 300
- (b)
 - (i) For attendance and searching at the deeds registry for information required in respect of any deed or matter registered under the Act, other than information required for preparation of a document otherwise provided for in this Tariff, including instructions, correspondence and relevant attendances, per quarter hour or part thereof N\$ 100
 - (ii) Reporting per folio N\$ 50
 - (iii) For attendance and searching at the deeds registry for research and searching for the necessary information in connection with the opening of the register and registration of the sectional plans, including correspondence and all relevant attendances per quarter hour or part thereof N\$ 100
 - (iv) Reporting per folio N\$50
- (c) For drawing any certificate by a conveyancer with regard to servitudes, other real rights or conditions if not otherwise provided for in this Tariff N\$ 120
- (d) For drawing certificate of establishment of any body corporate under section 38(1) of the Act, lodging the same, including all correspondence and attendances in connection therewith N\$ 120
- (e) For drawing a consent required in terms of section 26 of the Act, including all correspondence and attendances in connection therewith, including lodging N\$ 400
- (f) For any matter not herein provided, the fee charged in respect thereof, and the apportionment of the fee is in accordance with the tariff of fees prescribed by regulation 65 of the regulations made under the Deeds Registries Act.
- (g) Apportionment of fees set out in this Part:

(i)	In respect of paragraphs (a), (b) and (c): (Remark: Note 2 below may apply in circumstances contemplated in that note)	No apportionment
(ii)	In respect of paragraph (d):	
	For lodgement	N\$ 30
	For drawing certificate and lodgement	N\$ 90
(iii)	In respect of paragraph (e):	
	For lodgement	N\$ 80

(Note:

- Fees and percentages specified are nett and are not subject to any allowance, the customary one-third allowance having been taken into account in the apportionments.*
- If the instructing legal practitioner, conveyancer or notary merely takes instructions from his or her client and thereafter sends his or her whole file to the instructed legal practitioner, conveyancer or notary, who then does all the work, the former is as a general rule entitled to 15% and the latter to 85%, of the total fee.)*

Application of fees for preliminary work

3. If a legal practitioner, conveyancer or notary attending to the preliminary work in connection with any conveyancing matter request another legal practitioner, conveyancer or notary to do part of that preliminary work, the former must pay the latter from his or her share of the fees, the following:

(a)	For obtaining all necessary endorsements from the Master for any number of certificates which are or can be applied for simultaneously, per estate	N\$75
(b)	For obtaining copies of documents required for lodgement in a deeds registry which are or can be included in one application (exclusive of searches), per application	N\$25
(c)	For obtaining a clearance or other similar certificate from a public or local authority or a body corporate, per certificate	N\$60
(d)	For attending to the payment of transfer duty, stamp duty and obtaining endorsements of certificates referred to in section 17 of the Act	N\$50
(e)	For any other attendance, per half hour or part thereof	N\$60
(f)	For drawing any document, per folio or part thereof	N\$30
(g)	For perusing and certifying guarantee for payment	N\$60

(Note: The above fees are nett and are not subject to any allowance, the customary one-third allowance having been taken into account)

Wasted costs

4. The following is a guideline for the apportionment of fees where a mandate is terminated at any stage before execution or registration, as the case may be:

	Total fee
(a) For attendances on taking instructions and planning of the transaction, 20% of prescribed fee	20%
(b) For drawing preliminary documents, an additional 20% of prescribed fee	40%
(c) For attendances on signatures of preliminary documents, an additional 10% of prescribed fee	50%
(d) For attendances on completion of all necessary financial arrangements before lodgement, an additional 20% of prescribed fee	70%
(e) For drawing and preparing a deed for execution or document of registration, an additional 10% of prescribed fee	80%
(f) For lodgement, an additional 10% of prescribed fee	90%

Application of this tariff

5. (1) The fees referred to in -
- (a) column B of Schedule 1 below are payable in respect of the conveyance of immovable property referred to in column A thereof;
 - (b) column B of Schedule 2 below are payable in respect of the registration of mortgage bonds referred to in column A thereof.
- (2) This Tariff of Fees applies only in relation to any act-
- (a) in respect of which the fees referred to in this Tariff are payable; and
 - (b) which is performed by a legal practitioner, conveyancer or notary public in connection with any transaction in respect of which he or she received an instruction on or after the date of commencement of these Regulations.

SCHEDULE 1
Tariff of fees

COLUMN A	COLUMN B
Value of property	Fees for Conveyance of Immovable Property
N\$100 000 or less	N\$800
Over N\$100 000 up to and including N\$200 000	N\$1 600
Over N\$200 000 up to and including N\$300 000	N\$2 400
Over N\$300 000 up to and including N\$400 000	N\$3 200
Over N\$400 000 up to and including N\$500 000	N\$4 000
Over N\$500 000 up to and including N\$600 000	N\$4 800

Over N\$600 000 up to and including N\$700 000	N\$5 600
Over N\$700 000	N\$6 400 for the first N\$600 000 plus N\$900 per N\$100 000 or part thereof above that up to and including N\$1000 000 whereafter the fee is N\$500 per N\$100 000 or part thereof up to and including N\$6 000 000, whereafter the fee is N\$300 per N\$100 000.

SCHEDULE 2

Tariff of fees

COLUMN A	COLUMN B
Amount of Bond	Fees for Mortgage Bonds
N\$100 000 or less	N\$450
Over N\$100 000 up to and including N\$200 000	N\$900
Over N\$200 000 up to and including N\$300 000	N1 350
Over N\$300 000 up to and including N\$400 000	N\$1 800
Over N\$400 000 up to and including N\$500 000	N\$2 250
Over N\$500 000 up to and including N\$600 000	N\$2 700
Over N\$600 000 up to and including N\$700 000	N\$3 150
Over N\$700 000 up to and including N\$800 000	N\$3 600
Over N\$800 000	N\$4 050 for the first N\$500 000 plus N\$ 600-00 per N\$100 000 or part thereof above that, thereafter, up to and including N\$1 000 000 whereafter the fee is N\$300 per N\$100 000 or part thereof up to and including N\$5 000 000 whereafter the fee is N\$ 150 per N\$100 000

Note: *The above recommended tariff of fees is exclusive of VAT and office fees.*

ANNEXURE 5

**FEES PAYABLE TO LAND SURVEYORS AND ARCHITECTS FOR PREPARATION
OF A DRAFT SECTIONAL PLAN, A SECTIONAL PLAN OR OTHER PLAN
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Sections 6 and 26, Regulation 34(1))**

1. For Sheet 1:

An amount of N\$1 695, plus -

- (a) N\$50 per building being described;
- (b) N\$50 for a caveat, if applicable; and
- (c) N\$150 for each reference to previous phases, if applicable.

2. For Sheet 2 (Block Plan), excluding the determination of cadastral boundaries:

An amount of N\$1 695, plus -

- (a) N\$120 per building depicted thereon;
- (b) N\$4-50 per square meter of the total area of the depicted common property buildings;
- (c) N\$2 140 if exclusive use areas on the ground are depicted on this sheet.

Note: For the determination of the cadastral boundaries and the placement/relocation of the property beacons the recommended Land Survey Act tariff is applicable.

3. For floor plans:

An amount of N\$1 695, plus N\$15 per square meter for all sections of floor area as depicted on the participation quota schedule; plus

4. For the participation quota schedule:

An amount of N\$1 815, plus N\$50 per section depicted thereon.

5. For exclusive use plans:

- (a) For exclusive use areas where the boundaries thereof are determined by buildings or physical features:

An amount of N\$1 070 per exclusive use area sheet, plus N\$9-77 per square meter of the total area of the depicted exclusive use areas.

- (b) For exclusive use areas where the boundaries thereof are not determined by buildings, nor physical features:

An amount of N\$1 070 per exclusive use area sheet, plus N\$19-07 per square meter of the total area of the depicted exclusive use areas.

Note: For exclusive use areas which are bigger than 200square meters, the recommended Tariff of Fees published for work done in terms of the Land Survey Act is applicable in respect of the determination of this amount.

6. For cross-sections:

An amount of N\$1 065 per building where cross-sections are considered necessary, plus -

- (a) N\$90 per floor shown on such cross-sections; and
- (b) N\$7-50 per section depicted thereon.

7. For any matter relating to the preparation of a draft sectional plan not herein mentioned, the following fees are charged:

- (a) For a principal or partner, N\$771 per hour.
- (b) For qualified staff, N\$400 per hour.
- (c) For unskilled staff, N\$300 per hour.

8. General:

8.1 The fees referred to in paragraphs 1 to 7, inclusive, may be increased or decreased by up to 20% depending on the ease or difficulty of access, regular or irregular buildings, curvilinear, walls or obstructions.

8.2 Direct expenses incurred, such as plan printing costs and material and dispatching costs may be recovered at cost plus 10%.

8.3 Travelling and subsistence costs must be charged according to the Land Survey Act.

- Note:**
- 1. *The above recommended tariff of fees is exclusive of VAT and office fees.*
 - 2. *The fees specified include the taking of instructions and attendance in the office of the Surveyor General or the office of the local authority.*

ANNEXURE 6

DOCUMENTS TO BE KEPT IN CONVEYANCERS' FILES
SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)
(Regulation 37)

1. In the case of a transfer of ownership or alienation in terms of sections 17 and 36(4) of the Act:
 - (a) The original or duplicate original of the conveyancer's certificate under sections 17(3) and 36(4) of the Act.
 - (b) If applicable, the power of attorney conferring authority to act in respect of the transaction.
 - (c) The clearance certificate or other certificate issued by the body corporate to the effect that on date of registration of the relevant transfer all moneys due to the body corporate have been paid or that provision has been made to the satisfaction of the body corporate for the payment thereof.
 - (d) Any other document deemed necessary by the conveyance relating to the status, authority of capacity of the transferor or the transferee.
 2. In the case of a sectional mortgage bond:
 - (a) The Power of attorney conferring authority on the conveyancer to act in respect of the transaction, unless the authority is contained in the bond.
 - (b) Any other documents, including powers of attorney, deemed necessary by the conveyancer and relating to the status, authority of capacity of the mortgagor or his or her agent or of the mortgagee or his or her agent or of the conveyancer.
-

MINISTRY OF LANDS AND RESETTLEMENT

No. 224

2014

RULES FOR SECTIONAL TITLES: SECTIONAL TITLES ACT, 2009 (ACT NO. 2 OF 2009)

Under section 37(2) of the Sectional Titles Act, 2009 (Act No. 2 of 2009), on the recommendation of the Sectional Titles Regulation Board, I have made the rules set out in the Schedule.

A. !NARUSEB**MINISTER OF LANDS AND RESETTLEMENT**

Windhoek, 1 October 2014

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PART 1 INTRODUCTORY PROVISIONS

Definitions

1. In these rules a word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates -

“accounting officer” means a person qualified to perform the duties of an accounting officer in terms of the Close Corporations Act, 1988 (Act No. 26 of 1988);

“auditor” means a person qualified to act as an auditor under the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951);

“*domicilium*” means the *domicilium citandi et executandi* of a body corporate referred to in section 39(1)(l) of the Act as being its address for service of any process;

“management agent” means an agent appointed by a body corporate in terms of rule 44(1);

“registered mortgagee” means any mortgagee of whom a body corporate has been notified in writing in terms of section 46(1)(f) of the Act;

“the Act” means the Sectional Titles Act, 2009; and

“trustee” means a trustee of a body corporate as contemplated in section 41(1) of the Act.

PART 2 MANAGEMENT RULES

***Domicilium citandi et executandi* of body corporate**

2. (1) The trustees must from time to time determine the address constituting the *domicilium* of the body corporate as contemplated in section 39(1)(l) of the Act, subject that -

- (a) the address must be in the magisterial district -
 - (i) in which the development scheme is situated and must be the address of the chairperson or other resident trustee duly appointed at a general meeting; or
 - (ii) in which the offices of any duly appointed management agent are situated, being the address of the management agent;
- (b) no change of the address is effective until written notification has been received by the registrar and the local authority concerned; and
- (c) the trustees must give notice to all owners of sections in writing of any change of the address.

(2) Subject to subrule (3), the *domicilium* of each owner of a section is the section registered in his or her name, irrespective whether or not that section is occupied by the owner or by any other person, or is vacant.

(3) Subject to subrule (4), an owner referred to in subrule (2) is entitled to change his or her *domicilium* referred to in that subrule from time to time, and any new *domicilium* so selected must be situated within Namibia.

(4) A change of *domicilium* by an owner in terms of subrule (3) is only effective on receipt of written notice by the body corporate at its *domicilium* referred to in subrule (1).

Trustees

3. (1) Subject to subrule (2), the members of a body corporate must from time to time at a general meeting determine the number of trustees of the body corporate, which number may not be less than two.

(2) With effect from the date of establishment of a body corporate all owners of sections are trustees and hold office until the first general meeting of the members of the body corporate as contemplated in rule 48(1), where they must retire, but they are eligible for re-election.

(3) The chairperson of the trustees referred to in subrule (2) is the developer concerned or his or her nominee, who holds office until the general meeting referred to in that subrule, when he or she must retire as a trustee and as chairperson, but he or she is eligible for re-nomination or re-election, as the case may be, as a trustee in terms of that subrule and of rule 6, and as chairperson in terms of rule 17, respectively.

Qualifications of trustee

4. Subject to rule 3(2), in order to qualify for the office of trustee, a trustee or an alternate trustee does not have to be the owner of a section or the nominee of an owner which is a juristic person, but -

- (a) the majority of the trustees must be owners; and
- (b) a management agent or any of his or her employees or any employee of the body corporate may not be a trustee.

Election of trustees

5. (1) Subject to rule 3(2), the trustees are elected at the first general meeting and at each subsequent annual general meeting.

(2) The trustees elected in terms of subrule (1) hold office from the date of the meeting at which they are elected until the next succeeding annual general meeting.

(3) The trustees referred to in subrule (2) are eligible for re-election.

Nomination of trustees

6. (1) Nominations by owners of sections for the election of trustees at any annual general meeting must -

- (a) be in writing, contain the name of the person nominated and be signed by the person making the nomination;
- (b) be accompanied by the written consent to the nomination of the person nominated; and

- (c) be delivered at the *domicilium* of the body corporate not later than 48 hours before the meeting concerned.

(2) Despite subrule (1), trustees may also be elected, with the approval of the nominee concerned, by way of nominations made at the meeting concerned if insufficient written nominations are received in order to comply with rule 3(1).

Vacancies

7. (1) If a trustee vacates office, the body corporate must appoint any person to fill the vacancy in accordance with rule 13.

(2) A trustee appointed under subrule (1) holds office until the next annual general meeting when his or her term expires, but he or she is eligible for election as a trustee.

Alternate trustees

8. (1) A trustee may appoint any person, whether or not the other person is the owner of a section, to act as an alternate trustee during his or her absence or inability to act as a trustee.

(2) An alternate trustee may exercise the powers and must carry out the duties of a trustee.

(3) An alternate trustee vacates office if -

- (a) the trustee by whom he or she has been appointed, ceases to be a trustee; or
(b) his or her appointment is revoked by the trustee concerned.

Remuneration of trustees

9. (1) Unless otherwise determined by a special resolution of the owners of sections, trustees who are owners are not entitled to any remuneration in respect of their services as trustees, but the body corporate must reimburse the trustees in respect of all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers as trustees.

(2) A body corporate -

- (a) may remunerate trustees who are not owners of sections at the rate as may be agreed upon between the body corporate and the trustees; and
(b) must reimburse trustees referred to in paragraph (a) in respect of all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers as trustees.

(3) An alternate trustee appointed by a trustee who is not an owner of a section, must claim his or her remuneration and refund of disbursements and expenses, if any, from the trustee whom he or she represents and not from the body corporate.

Validity of acts of trustees

10. An act performed by a trustee is valid, notwithstanding the fact that there is after the performance of the act discovered that there had been some defect in the appointment or continuance in office of any trustee, as if the trustee had been duly appointed or had duly continued in office.

Indemnity

11. (1) Every trustee, agent or officer or servant of the body corporate, excluding a management agent, is considered to be indemnified by the body corporate against all costs, losses, expenses, claims or other liabilities which he or she may incur or become liable for by reason of any act done by him or her in the discharge of his or her duties as a trustee, agent, officer or servant, unless the costs, losses, expenses, claims or liabilities are caused by any intentional, reckless, unprofessional or negligent act by the trustee, agent or officer or servant.

(2) The trustees must pay any indemnity referred to in subrule (1) out of the funds of the body corporate.

Vacation of office of trustee

12. A trustee vacates office, if the trustee -

- (a) resigns as trustee by notice in writing to the body corporate;
- (b) is or becomes of unsound mind;
- (c) surrenders his or her estate as insolvent or his or her estate is sequestrated;
- (d) is convicted of an offence which involves dishonesty;
- (e) by resolution of a general meeting of the body corporate, is removed from office, subject that the intention to vote upon the removal from office of the trustee must have been specified in the notice convening the meeting; and
- (f) is or becomes disqualified from being appointed or acting as a director of a company in terms of section 225 or 226 of the Companies Act, 2004 (Act No. 28 of 2004).

Replacement of trustee

13. A body corporate may appoint, subject to these rules, at a general meeting in the manner as it may determine, any person as a trustee in the place of any trustee who -

- (a) has vacated office in terms of rule 12;
- (b) has died; or
- (c) has in any other manner vacated his or her office,

for the unexpired part of the term of office of the trustee to be so replaced.

Meetings of trustees

14. (1) Subject to subrules (2), (3), (4) and (5), the trustees may convene meetings and conduct or adjourn the meetings and regulate their meetings as they consider fit.

(2) It is not necessary to give notice of a meeting of trustees to any trustee for the time being absent from Namibia, but notice of a meeting must be given to the alternate of the trustee -

- (a) if one has been appointed; and
- (b) if the alternate is in Namibia at the time of giving notice of the meeting.

(3) A trustee may convene a meeting of the trustees at any time by giving written notice to the other trustees and to all holders of first mortgage bonds in the circumstances referred to in subrule (5).

(4) The notice referred to in subrule (3), not less than seven days' written notice of the meeting concerned, which notice must contain the complete agenda of the meeting so convened, but in a case of urgency or emergency, the trustee concerned may give any shorter notice as is considered reasonable in the circumstances by the majority of the trustees.

(5) Any mortgagee or his or her nominee holding a first mortgage bond over a section is entitled, if he or she so requires from the trustees in writing, to receive reasonable notice of all meetings of the trustees.

(6) A nominee referred to in subrule (4) is entitled to attend and participate in discussions at all meetings of the trustees, but is not in his or her capacity as such entitled to vote at a meeting.

(7) An owner of a section who is not a trustee is entitled to attend and participate in discussions at any meeting of the trustees, but is not in his or her capacity as such entitled to vote at a meeting.

Quorum at meetings of trustees

15. (1) At a meeting of trustees 50% of the trustees, but not less than two of them, constitutes a quorum.

(2) If the number of trustees in office at any time is less than the number necessary to form a quorum at any meeting, the remaining trustee or trustees may continue to act, but only for the purpose of appointing or co-opting additional trustees to form a quorum at a meeting or for the purpose of convening a general meeting of owners of sections.

Absence of quorum at meetings of trustees

16. If at a meeting of trustees a quorum is not present until 30 minutes of the commencement time of the meeting as determined in the notice convening the meeting, the meeting must stand adjourned to the next business day at the same time and venue and the trustees then present at such meeting, but not less than two of them, form a quorum for the purposes of the meeting.

Chairperson of trustees

17. (1) At the commencement of the first meeting of trustees held after an annual general meeting at which trustees have been elected, the trustees must elect a chairperson from amongst their number who holds office until the end of the next annual general meeting of members of the body corporate.

(2) The chairperson referred to in subrule (1) has a deliberative vote as well as a casting vote at trustee meetings, except if there are only two trustees present at a meeting.

Removal of chairperson of trustees from office

18. The -

(a) trustees, at a meeting of trustees; or

(b) the body corporate, at a special meeting,

may remove the chairperson from office by a majority vote, if in respect of the meeting written notice of the intended removal from office of the chairperson had been given and the chairperson has been afforded an opportunity to be heard.

Vacation of office by chairperson of trustees

19. If the chairperson elected in terms of rule 17 vacates office as chairperson or has been removed from office as contemplated in rule 18, the trustees must elect, subject to these rules, another trustee to serve as chairperson for the remainder of the period of office of the chairperson.

Vacation of office by chairperson of trustees during meeting

- 20.** (1) If the chairperson at a meeting of trustees -
- (a) vacates the chair during the course of a meeting;
 - (b) is not present at the meeting; or
 - (c) is for any other reason unable to preside at any meeting,

the trustees present at the meeting must elect any trustee to act as chairperson at the meeting.

(2) The acting chairperson referred to in subrule (1) has the same voting rights as the chairperson.

Voting at meetings of trustees

21. (1) All matters at meetings of the trustees must be determined by a majority vote of the trustees present and voting.

(2) If there are only two trustees present at a trustee meeting there must be a unanimous resolution before the resolution concerned is valid.

(3) Unless otherwise provided for in the Act, the regulations or these rules, the trustees determine the proceedings, including the proceedings relating to voting, at the meetings of trustees.

Interest of trustee in any matter

22. A trustee is disqualified from voting in respect of any agreement or proposed agreement, or in respect of any litigation or proposed litigation, relating to the body corporate, if he or she has any interest of any kind in the agreement or litigation.

Resolution in writing

23. A resolution in writing signed by at least two trustees holding office and who are within the borders of Namibia, at that point in time, is as valid and effective as a resolution passed at a duly convened meeting of the trustees.

Powers of trustees

- 24.** (1) The trustees may -
- (a) make house rules from time to time for the control, use, safety and cleanliness of the common property, which rules -

- (i) may not conflict with the act or with these rules;
 - (ii) must be reasonable; and
 - (iii) apply equally to all owners;
- (b) delegate or assign to any trustee any power, function and duty as they may consider fit and may at any time revoke the delegation or assignment.

(2) The trustees may not give loans on behalf of the body corporate to owners of sections or to any of the trustees.

Signing of agreements or negotiable instruments

25. An agreement or negotiable instrument signed on behalf of a body corporate is not valid and binding unless it is signed by -

- (a) a trustee and the management agent; or
- (b) two trustees; or
- (c) in the case of a certificate issued to a conveyancer for the purposes of section 17 (3) (a)(i)(aa) of the Act, two trustees or the management agent.

General functions and duties of trustees

- 26.** The trustees must do all things reasonably necessary for -
- (a) the control, management and administration of the common property in terms of the powers conferred upon the body corporate by section 40 of the Act; and
 - (b) the enforcement of these rules.

Insurance

27. (1) At the first meeting of trustees, or as soon as practicable, and annually, the trustees must take all the steps necessary to insure the buildings, and all improvements on and to the common property, to the full replacement value, against any damages which may be caused by -

- (a) fire, lightning and explosion;
- (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 and floods;
- (d) earthquake;
- (e) aircraft and other aerial devices or articles dropped;
- (f) bursting or overflowing of water tanks, apparatus or pipes;
- (g) impact with any of the buildings or improvements by any vehicle or animal;
- (h) housebreaking or any attempt;

- (i) loss of occupation or loss of rent in respect of any of the above risks; and
 - (j) the other risks, perils or dangers as the trustees or any holder of a first mortgage bond over not less than 25 per cent in number of the sections in the development scheme, may consider fit.
- (2) The trustees must at all times ensure that in the policy of insurance referred to in subrule (1) -
- (a) the replacement value of each section is specified, excluding the owner's interest in the land, -
 - (i) initially, but subject to subparagraph (iii), in accordance with the trustees' estimate of the value;
 - (ii) after the first annual general meeting, but subject to subparagraph (iii), in accordance with the schedule of values as approved in terms of subrule (3); or
 - (iii) as required at any time by any owner in terms of subrule (4).
 - (b) any "average" clause is restricted in its effect to individual sections and does not apply to the building as a whole;
 - (c) there is included a clause in terms of which the policy is valid and enforceable against the insurer by any holder of a mortgage bond, despite any circumstances which would otherwise entitle the insurer to refuse to make payment of the amount insured, unless and until the insurer on not less than 30 days' notice to the mortgagee may have terminated the insurance.
- (3) Before every annual general meeting the trustees must cause to be prepared schedules reflecting their estimate of -
- (a) the replacement value of the buildings and all improvements to the common property; and
 - (b) the replacement value of each section (excluding the owner's interest in the land), the aggregate of the values of all sections being equal to the value referred to in subrule (1),

and the schedules must be submitted to the annual general meeting held in terms of rule 54 for consideration and approval.

(4) An owner of a section may at any time increase the replacement value as specified in the insurance policy in respect of the owner's section, but the owner is liable for payment of the additional insurance premium and must furnish the body corporate with proof of the payment made to the insurer.

(5) The trustees must record the cession by an owner of a section to the holder of a mortgage bond of that owner's interest in the application of the proceeds of the policies of insurance effected in terms of subrule (1)(a) on the written request of that holder of a mortgage bond and on the furnishing of satisfactory proof of the cession.

(6) At the first meeting of trustees or as soon as practicable, the trustees must take all reasonable steps -

- (a) to insure the owners of sections and the trustees and to keep them so insured against liability in respect of -
 - (i) death, bodily injury or illness; or
 - (ii) liability relating to the loss of, or damage to, property occurring in connection with the common property, in an amount of not less than two hundred thousand Namibia dollars, or in any other amount as the owners at a general meeting may direct from time to time; and
- (b) to procure, to the extent as determined by the members of the body corporate at a general meeting, a fidelity guarantee in terms of which guarantee must be refunded any -
 - (i) loss of moneys belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insured person, being any person in the service of the body corporate, any trustee or any person acting in the capacity of management agent of the body corporate;
 - (ii) loss of moneys in the course of business up to and including an amount equivalent to total levies due and payable in one month or any lesser amount as the trustees from time to time may determine; and
 - (iii) loss of, or damage to, any receptacle for which the body corporate is responsible, resulting from the theft or attempted theft of money.

(7) The owners of sections may by special resolution direct the trustees to insure against any other risks as the owners may determine from time to time.

Collection of contributions

28. The trustees must levy contributions on the owners of sections concerned and must collect the contributions from the owners in terms of section 39(1) of the Act.

Liabilities of owners to make contributions

29. (1) The liability of owners of sections to make contributions and the proportions in which the owners must make contributions for the purposes of section 39(2) of the Act or may in terms of section 49 of the Act be held liable for the payment of a judgment debt of the body corporate must be borne by the owners with effect from the date upon which the body corporate is considered to be established, in accordance with -

- (a) the participation quotas attaching to their respective sections; or
 - (b) a determination made by the members of the body corporate by unanimous decision in terms of section 24(3) of the Act.
- (2) At every annual general meeting the body corporate must -
- (a) approve, with or without amendment, the itemised estimate of the anticipated income and expenses referred to in rule 34; and
 - (b) determine the amount estimated to be levied upon the owners of sections during the ensuing financial year.

(3) Within 14 days after the annual general meeting the trustees must advise each other in writing of the amount payable by every owner of a section in respect of the estimate referred to in subrule (2) and the amount becomes payable in instalments in the manner determined by the trustees.

(4) The trustees may, from time to time and if necessary -

- (a) determine special levies payable by the owners of sections; or
- (b) call upon the owners to make special contributions,

in respect of all the expenses referred to in subrule (1) which are not included in any estimates made in terms of subrule (2) and the levies and contributions may be made payable in one sum or by the instalments and at any time as the trustees may consider fit.

(5) An owner of a section is liable for and must pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the body corporate relating to the recovery of arrear levies or any other arrear amounts due and owing by the owner to the body corporate or in enforcing compliance with these rules or the Act.

(6) The trustees are entitled to charge interest on arrear amounts at the rate determined by the trustees from time to time.

Record of rules and their availability

30. (1) The trustees must keep a complete record of all applicable rules, including amendments.

(2) The trustees must on the written application of -

- (a) the owner of a section;
- (b) the occupant of a section;
- (c) a prospective purchaser of a section;
- (d) the holder of any registered sectional mortgage bond;
- (e) the management agent; or
- (f) the auditor or the accounting officer,

furnish the person with a copy of all rules in force and may require the person to pay a reasonable charge, as determined by the trustees, in respect of the furnishing of the copy.

Improvements

31. (1) The trustees on their own initiative, or if the owners by unanimous resolution so decide, may effect improvements of a luxurious nature on the common property.

(2) If the trustees wish to effect any improvements to the common property, other than luxurious improvements referred to in subrule (1), they must first give written notice to all owners of sections.

(3) A notice in terms of subrule (2) must -

- (a) indicate the intention of the trustees to proceed with the improvements upon the expiry of a period of not less than 30 days from the date of posting the notice; and
- (b) provide details of the improvements as to -
 - (i) the costs;
 - (ii) the manner in which it is to be financed and the effect upon levies paid by the owners; and
 - (iii) the need, desirability and effect of the improvements.

(4) The trustees must at the written request of any owner convene a special general meeting in order to discuss and to deliberate upon the proposals contained in a notice referred to in paragraph (a) at which meeting the owners may veto, amend or approve the proposals by way of special resolution.

(5) If a special general meeting of owners of sections is convened as contemplated in subrule (4), the trustees may not proceed with their proposals until the holding of the meeting, where they are bound by any special resolution ensuing from the meeting.

(6) Despite subrule (1) and (2), the trustees must procure, if so required in writing by a majority of owners, the installation and maintenance in good working order, at the body corporate's cost, of separate meters to record the consumption of electricity, water and gas in respect of each individual section and the common property.

(7) If and as long as no separate meters have been installed in terms of subrule (6), the contribution payable by each owner in respect of electricity, water and gas are calculated in accordance with rule 29.

Minutes of meetings of body corporate

- 32.** (1) The trustees must -
- (a) cause to be kept in a minute book of the body corporate minutes of the proceedings at all meetings of the body corporate; and
 - (b) include in the minute book a record of every unanimous resolution, special resolution and any other resolution of the body corporate.

(2) The trustees must cause all minute books referred to in subrule (1) to be kept for as long as the development scheme concerned remains registered.

(3) On the written application of any owner of a section or a registered mortgagee of a section, the trustees must make all minutes of the proceedings at meetings and minutes of the body corporate available for inspection by the owner or mortgagee at any reasonable time.

Books of account and records

33. (1) The trustees must cause proper books of account and records to be kept so as to comprehensively set out and explain the transactions and financial position of the body corporate, including -

- (a) a record of the assets and liabilities of the body corporate;

- (b) a record of all moneys received and expended by the body corporate and the matters in respect of which the receipts and expenditures occurred;
- (c) a register of owners of sections and of registered mortgagees of sections and of all other persons having real rights in that sections containing in each case the address of the person concerned;
- (d) individual ledger accounts in respect of each owner; and
- (e) bank statements and particulars of bank accounts.

(2) The trustees must cause all books of account and records to be retained for as long as the development scheme concerned remain registered.

(3) On the written application of any owner of a section, a registered mortgagee or a management agent, the trustees must make all of the books of account and records available for inspection by the owner, mortgagee or management agent at any reasonable time.

Annual financial estimate

34. (1) Before every annual general meeting, the trustees must cause to be prepared an itemised estimate of the anticipated income and expenses of the body corporate to be incurred during the ensuing financial year.

- (2) The estimate referred to in subrule (1) must -
 - (a) include a reasonable provision for contingencies; and
 - (b) be tabled before the annual general meeting for consideration in terms of rule 54.

Financial statements

- 35.** The trustees must -
- (a) cause to be prepared a financial statement conforming with generally accepted accounting practices and which statement must fairly represent the state of affairs of the body corporate and its finances and transactions as at the end of the financial year concerned; and
 - (b) table the financial statement referred to in paragraph (a) before every annual general meeting for consideration in terms of rule 54(b).

Report

- 36.** The trustees must -
- (a) cause to be prepared a report, signed by the chairperson, setting out the affairs of the body corporate during the past financial year; and
 - (b) table the report referred to in paragraph (a) before every annual general meeting for consideration in terms of rule 54(b).

Delivery of schedules, estimates, audited statement and report to owners and mortgagees

37. (1) The trustees must cause copies of the applications for insurance policies, itemised estimate of the anticipated income and expenses, financial statement and report referred to

in rules 27, 34, 35 and 36, respectively, to be delivered to each owner of a section and to any holder of a mortgage bond who or which has advised the body corporate of his or her or its interest, not less than 14 days before the date of the annual general meeting at which the documents concerned are to be considered.

(2) Delivery under subrule (1) is considered to have been effected if the documents referred to are sent by prepaid registered post, addressed to the owner at his or her *domicilium* referred to in rule 2(2), or to any holder of a mortgage bond at the address of the mortgagee as reflected in the records of the body corporate.

Audit

38. (1) At the first general meeting of a body corporate and thereafter at every ensuing annual general meeting, the body corporate must appoint, subject to subrule (2), an auditor to hold office from the conclusion of the annual general meeting until the conclusion of the next annual general meeting.

(2) If a development scheme comprises less than 10 sections, an accounting officer may in terms of subrule (1) be appointed in the place of an auditor.

Deposit of funds into banking accounts

39. (1) The trustees must cause all moneys received by the body corporate to be deposited to the credit of an account or accounts with a banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998), or a building society as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986), in the name of the body corporate.

(2) Subject to any restriction imposed or direction given at a general meeting of the body corporate, any moneys deposited in terms of subrule (1) may only be withdrawn from the accounts for the purpose of the payment of the expenses of the body corporate or for the purpose of the investment in terms of rule 41.

Operation and administration of banking accounts

40. (1) The trustees may authorise a management agent to administer and operate any of the accounts referred to in rule 39 and 41.

(2) If a management agent is an estate agent as defined in the Estate Agents Act, 1976 (Act No. 112 of 1976), the trustees may authorise the management agent to deposit moneys contemplated in rule 39 in a trust account referred to in section 32(1) of that Act, to be conducted as contemplated in section 32(3), which moneys may only be withdrawn for the purposes contemplated in rule 39.

Investment of funds

41. Any moneys referred to in rule 39 not immediately required for disbursement may be invested in a savings or similar account with any banking institution as defined in section 1 of the Banking Institutions Act, 1998 (Act No. 2 of 1998) or a building society as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986) approved by the trustees from time to time.

Interest on investments

42. Interest on moneys invested in terms of rule 41 may be used by the body corporate for any purpose in terms of these rules.

No refunds or distribution of profits or assets

43. (1) The owners of sections are not entitled to a refund of contributions lawfully levied upon them and duly paid by them.

(2) The profits or gains of a body corporate may not be distributed to any owner of a section or to any other person except -

- (a) upon the destruction or the deemed destruction of the building concerned; or
- (b) if the profit or gain is of a capital nature.

Appointment, powers and duties of management agent

44. (1) Despite anything to the contrary in rule 26 and subject to section 41(1) of the Act and subrule (2), the trustees -

- (a) may appoint from time to time; and
- (b) must appoint, if required by the holders of mortgage bonds of not less than 50 per cent of the sections or by the members of the body corporate at a general meeting,

a management agent in terms of a written agreement -

- (i) for the purpose of controlling, managing and administering the common property; and
- (ii) to exercise the powers and duties as may be entrusted to the management agent, including the power to collect levies and to appoint a supervisor or a caretaker.

(2) A management agent must be appointed for one year at a time.

(3) Unless a body corporate in writing notifies a management agent to the contrary not less than three months before the date of expiration of the appointment of the management agent, the appointment is automatically renewed from year to year.

(4) The trustees must ensure that there is included in an agreement of appointment a provision to the effect that if the management agent -

- (a) is in breach of the agreement; or
- (b) is guilty of conduct which at common law would justify the termination of an agreement between an employer and employee,

the trustees may cancel an agreement without any prior notice and that in the event of the cancellation of the agreement as provided, the management agent does not have any claim whatsoever against the body corporate or any owner of a section as a result of the cancellation.

(5) If -

- (a) a management agent is in breach of an agreement of appointment; or
- (b) is guilty of any conduct which at common law would justify the termination of an agreement between an employer and employee,

any owner of a section or holder of a mortgage bond registered against any section in the buildings may in writing require the trustees to cancel an agreement concerned as provided for in subrule (4).

(6) This rule does not detract from any other right of the trustees to cancel an agreement of appointment concerned or to provide therein for other grounds of cancellation by the trustees.

(7) Any owner of a section or holder of a mortgage bond who requires, in terms of subrule (5), the trustees to cancel an agreement of appointment must furnish the trustees with security, as the trustees in their discretion may determine, for the payment of and indemnify the trustees and the body corporate against -

- (a) all litigation costs which may be reasonably incurred by the trustees in enforcing the cancellation against the management agent; and
- (b) all other costs and damages arising out of the cancellation, purported cancellation or litigation for which the trustees or the body corporate may be liable up to the time that the owner of a section or a holder of a mortgage bond in writing notifies the trustees that he or she no longer requires them to pursue the action concerned.

(8) The trustees are not required to cancel an agreement of appointment unless and until the owner of a section or holder of a mortgage bond who requires the cancellation in terms of subrule (5) has furnished them with the security and indemnity referred to in subrule (7).

Contract of appointment

45. (1) A contract of appointment entered into with a management agent must provide, in addition to the other requirements of these rules, that the appointment is considered to have been revoked and that the management agent ceases to hold office -

- (a) if, in the case where the management agent -
 - (i) is a juristic person, an order is made for its provisional or final liquidation or it is placed under judicial management; or
 - (ii) is a natural person, the management agent applies for the surrender of his or her estate as insolvent or his or her estate is sequestrated either provisionally or finally; or
- (b) if the management agent is convicted of an offence involving an element of fraud or an element of dishonesty or, if the management agent is a juristic person, any of its directors, members or trustees are convicted of an offence involving an element of fraud or an element of dishonesty, or
- (c) if a special resolution of the members of the body corporate is passed to that effect.

(2) If a management agent is removed from office in terms of subrule (1)(c), the management agent is not deprived of any right he or she may have to claim compensation or damages for breach of contract.

Keeping of records and furnishing of reports by management agent

46. A management agent must -

- (a) keep comprehensive records of his or her administration in terms of rule 44; and
- (b) report in writing to -

- (i) the body corporate;
- (ii) owners of sections; and
- (iii) all holders of registered sectional mortgage bonds over sections referred to in rule 52(1)(b),

all matters which in his or her opinion detrimentally affect the value or amenity of the common property and any of the sections.

Notice of meetings to management agent

- 47.** (1) The trustees must -
- (a) give reasonable written notice to a management agent of all meetings of the trustees; and
 - (b) furnish to a management agent copies of the minutes of all meetings of the trustees and of the body corporate.
- (2) A management agent may, with the approval of the trustees, attend meetings of the trustees and may take part in deliberations but does not have a right to vote.

First meeting of owners of sections

- 48.** (1) The first meeting of owners of sections is held within 60 days after the date of establishment of the body corporate.
- (2) Any owner of a section may convene the first meeting of owners of sections.
- (3) Not less than seven days' notice of a meeting in terms of subrule (1) must be given in writing and the notice must be accompanied by -
- (a) a copy of the agenda of the meeting; and
 - (b) details of the items referred to in subrule (4).
- (4) The agenda for a meeting convened in terms of subrule (2) must comprise of at least -
- (a) the consideration, confirmation or variation of the insurances effected by the developer or the body corporate;
 - (b) the consideration, confirmation or variation of the itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year;
 - (c) the consideration and approval, with or without amendment, of the financial statements relating to the management, control and administration of the building from the date of establishment of the body corporate to the date of the notice of the meeting referred to in subrule (1);
 - (d) the accepting of the cession of the agreements relating to the management, control and administration of the building as may have been entered into by the developer for the continual management, control and administration of the building and the common property and in respect of which the developer is obliged to submit the agreements to the meeting;

- (e) the appointment of an auditor or accounting officer;
- (f) the election of trustees;
- (g) any restriction imposed or direction given in terms of section 41(1) of the Act; and
- (h) determination of the *domicilium* of the body corporate.

Annual general meetings of owners of sections

49. (1) An annual general meeting of owners of sections must be held within four months after the end of each financial year of the body corporate.

(2) Unless otherwise decided at an annual general meeting of owners of sections or by the trustees, the financial year of a body corporate ends on the last day of February in each year.

General meetings of owners of sections

50. All general meetings of owners of sections, other than the annual general meetings, are referred to as special general meetings of owners of sections.

Special general meeting of owners of sections

51. (1) The trustees -

- (a) may convene, if they consider it necessary; and
- (b) must convene, upon a request in writing made either by owners of sections entitled to 25 per cent of the total of the quotas of all sections or by any holder or holders of mortgage bonds over not less than 25 per cent in number of the sections,

a special general meeting of owners of sections.

(2) If the trustees fail to convene a meeting requested in terms of subrule (1)(b) within 14 days after receipt of the request concerned, the owners of sections or the holders of the mortgage bond or bonds concerned are entitled themselves to convene the meeting.

Notice of general meetings of owners of sections

52. (1) Unless otherwise provided in the Act, not less than 14 days' notice of any general meeting of owners of sections, specifying the venue, date and time of the meeting must be given -

- (a) to all owners of sections;
- (b) to all holders of registered mortgage bonds over sections who have advised the body corporate of their interests; and
- (c) to the management agent.

(2) A -

- (a) venue referred to in subrule (1) must be within the magisterial district where the development scheme is situated or any other place determined by special resolution of members of the body corporate;

- (b) notice referred to in subrule (1) must include an agenda of the convened meeting and in the case of special business, particulars of the nature of the business.
- (3) The holders of registered mortgage bonds and a management agent have the right to attend a meeting referred to in subrule (1) and to be heard at the meeting but do not have a right to vote.
- (4) A notice referred to in subrule (1) is considered to have been given and delivered in accordance with rule 37(2) to the person referred to in paragraphs (a) and (b) of subrule (1).
- (5) A notice referred to in subrule (1) is accompanied by the documents referred to in rule 37(1) except in the case of a meeting in terms of rule 48(1) or a special general meeting.
- (6) Any inadvertent omission to give the notice referred to in subrule (1) to any person entitled or the non-receipt by the person does not invalidate, except in the case of a person referred to in subrule (1)(b), any proceedings at the meeting concerned.
- (7) If all persons entitled to attend the meeting agree, a general meeting of owners of sections may be convened on shorter notice than specified in subrule (1).
- (8) Subject to subrule (9), a special general meeting of owners of sections may be convened on 14 days' notice for the purposes of passing a unanimous or special resolution.
- (9) If, due to the urgency or the specific nature of a matter, the trustees are of the opinion that a meeting referred to in subrule (8) must be convened on a shorter period of notice than specified, the meeting may be convened on less than 14 days' notice if notice of the meeting has been given to all the members of the body corporate.

Proceedings at general meetings of owners of sections, ordinary and special business

53. All business at any general meeting of owners of sections other than business referred to in rule 54(a), (b), (c) and (d) is considered to be special business.

Annual general meeting of owners of sections

- 54.** The business to be transacted at an annual general meeting of owners of sections are -
- (a) the consideration of the financial statement and report referred to in rule 35 and 36 respectively;
 - (b) the approval with or without amendment of -
 - (i) the schedules of replacement values referred to in rule 37(1); and
 - (ii) the estimate of income and expenditure referred to in rule 34;
 - (c) the appointment of an auditor or an accounting officer;
 - (d) the determination of the number of trustees for the ensuing year;
 - (e) the election of trustees for the ensuing year;
 - (f) any special business of which due notice has been given in terms of rule 52;

- (g) the imposing of restrictions or the giving of directions referred to in section 41(1) of the Act; and
- (h) the determination of the *domicilium* of the body corporate.

Quorum at general meeting of owners of sections

55. (1) Business may not be transacted and matters may not be discussed at any general meeting of owners of sections, unless a quorum is present, in person or by proxy, at the time when the meeting commences and at the time when the business concerned is transacted or the matter concerned is discussed.

- (2) A quorum at a general meeting referred to in subrule (1) is -
 - (a) the number of owners of sections holding not less than 50 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote, in a development scheme consisting of 10 sections or less;
 - (b) the number of owners of sections holding not less than 35 per cents of the votes, present in person or by proxy or by representative recognised by law and entitled to vote, in a development scheme consisting of more than 10 sections but less than 50 sections; and
 - (c) the number of owners of sections holding not less than 20 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote, in a development scheme consisting of 50 sections or more.

Absence of quorum at general meeting of owners of sections

56. (1) If within half an hour after the time determined for the commencement of a general meeting of owners of sections, a quorum required for the meeting is not present, the meeting stands adjourned to the same day in the next week at the same venue and time.

(2) If at the venue, date and time to which a meeting was adjourned in terms of subrule (1), a quorum is not present at the venue concerned within half an hour of the time of which the meeting had been adjourned, the owners of sections present at the venue in person or represented by proxy and entitled to vote, despite any provision to the contrary in these rules, form a quorum for the purpose of the meeting.

Chairperson at general meeting of owners of sections

57. (1) The chairperson of the trustees presides as chairperson at every general meeting of owners of sections the body corporate, unless otherwise resolved at the meeting by the owners.

- (2) If -
 - (a) chairperson of the trustees has not been elected;
 - (b) at any meeting of owners of sections the chairperson of the trustees is not present within 15 minutes after the time determined for the commencement of the meeting; or
 - (c) the chairperson is unwilling or unable to act as chairperson,

the members present must elect one of their number to act as chairperson at the meeting.

Voting at general meetings of owners of sections

58. (1) At any general meeting of owners of sections a resolution put to the vote of the meeting must be decided by a show of hands by the persons present and entitled to vote at the meeting, unless either prior to or on the declaration by the chairperson of the result of the show of hands, a poll by means of a secret ballot is demanded by any person entitled to vote at the meeting.

(2) Unless a poll is demanded in terms of subrule (1), a declaration by the chairperson that a resolution has been carried by means of the show of hands is conclusive proof of that fact without proof of the number or the proportion of the votes recorded in favour of or against the proposal concerned.

(3) A demand for a poll by secret ballot may be withdrawn at any time before the poll is held.

Poll by means of secret ballot

59. A poll by secret ballot in terms of rule 58 must be held in the manner as the chairperson may determine and the result of the poll is considered to be the decision of the meeting at which the poll by secret ballot was demanded.

Votes

60. (1) In a vote by means of a show of hands, an owner of a section or if the owner is a juristic person, its proxy, has one vote per section.

(2) The chairperson may, at any time, change the manner of voting from a show of hands to a poll by means of a secret ballot.

Determination of value of votes

61. For the purpose of -

- (a) a unanimous resolution or a special resolution; or
- (b) a poll by secret ballot,

the value of the vote of an owner of a section must be calculated in accordance with the applicable participation quotas.

No vote in certain circumstances

62. (1) Except in cases where a special resolution or unanimous resolution is required under the Act, an owner of a section is not entitled to vote at any general meeting if -

- (a) all contributions payable by the owner in respect of his or her section and his or her undivided share in the common property have not been duly paid; or
- (b) the owner persists in the contravention of any conduct rule referred to in section 37(3)(b) of the Act, despite written warning by the trustees or management agent to refrain from contravening the rule.

(2) The holder of a mortgage bond registered against a section is entitled to vote at a general meeting as the proxy of an owner of a section, even though subrule (1) applies to the owner.

Voting by trustee on behalf of beneficiary

63. (1) If the owner of a section is a trustee or a beneficiary of a trust, the owner must exercise the voting rights in respect of the section.

(2) The beneficiary of a trust does not have the right to vote at a general meeting of owners, except the beneficiary referred to in subrule (1).

Joint voters

64. If two or more persons are entitled to exercise one vote jointly -

- (a) the vote may be exercised by any one of those persons or by any other person, appointed jointly by the persons as their proxy; and
- (b) any one of them, or their proxy, may demand a poll by secret ballot in terms of these rules.

Proxies

65. (1) Votes at a general meeting of owners of sections may be cast either personally or by proxy, whether by means of a poll by secret ballot or by means of a show of hands.

(2) A proxy must -

- (a) be appointed, subject to subrule (3), in writing under the signature of the appointer or his or her agent duly appointed in writing; and
- (b) be handed to the chairperson prior to the commencement of the meeting.

(3) Subrule (2) does not apply in the case of any proxy created and contained in any registered mortgage bond if the mortgage bond is produced at the meeting.

(4) A proxy does not have to be an owner of a section, but may not be -

- (a) the management agent or any of his or her employees; or
- (b) an employee of the body corporate.

Duties of owners of sections

66. (1) In addition to the duties referred to in section 46 of the Act, an owner of a section -

- (a) may not use his or her section, exclusive use area or any part of the common property, or permit it to be used, in a manner or for a purpose as may be detrimental to the prestige of the building;
- (b) may not contravene, or permit the contravention of any law, by-law, ordinance, Government notice, proclamation, regulation or rule, or the conditions of any licence applicable or relating to or affecting the occupation of the building or the common property, or the conducting of business in the building, or the conditions of title applicable to his or her section or to any other section, or to his or her exclusive use area or any other exclusive use area;

- (c) may not make alterations to the section concerned which are likely to impair the stability of the building or the use and enjoyment of other sections, the common property or any exclusive use area;
- (d) may not do anything to his or her section or exclusive use area which may be detrimental to the appearance of the buildings;
- (e) may not use nor permit an exclusive use area to be used for any purpose other than the purpose for which the exclusive use area is intended to be used, as indicated expressly or by implication on or by a registered sectional plan, unless with the written approval of all the owners of sections, which approval may not be withheld unreasonably;
- (f) may not construct or place any structure or any improvement to a building on his or her exclusive use area, without the prior written approval of the trustees, which approval may not be withheld unreasonably; and
- (g) must maintain the hot water installation which serves his or her section or if the installation serves more than one section, the owners concerned must maintain the installation pro-rata, notwithstanding that the appliance is situated in a part of the common property and is insured in terms of the insurance policy effected by the body corporate.

(2) Any owner of a section who exercises his or her rights in terms of section 61(3) of the Act must bear all the costs.

Rules binding on certain other persons

67. (1) These rules, the conduct rules and the duties of the owner of a section in relation to the use and occupation of sections and common property in terms of the Act are binding on the owner of any section and on any lessee or other occupant of any section.

(2) Every owner of a section must ensure compliance with these rules and the conduct rules by any lessee or other occupant of a section, including any employee, guest or member of the family of the lessee or of the occupant.

Failure of owner to maintain sections

68. If an owner of a section -

- (a) fails to repair or maintain his or her section in a state of good repair as required by section 46(1)(c) of the Act; or
- (b) fails to maintain adequately any area of the common property allocated to him or her for his or her exclusive use and enjoyment,

and if the failure persists for 30 days after written notice to the owner by the trustees or the management agent on their behalf, the body corporate is entitled to -

- (i) remedy, for and on behalf of the owner, the failure of the owner to so repair or maintain the section or area of the common property; and
- (ii) to recover the reasonable cost of repair or maintenance from the owner.

Exclusive use areas

69. (1) Subject to subrule (6) and despite the fact that exclusive use areas are part of the common property in terms of a sectional plan relating to the sectional title scheme as filed with the Registrar of Deeds, the owner of each section comprised in the scheme is entitled, subject to subrules (2), (3), (4) and (5), to the exclusive use, occupation and enjoyment to the exclusion of the rights of all other owners and all other persons of the area numbered and corresponding to the number of his or her section marked on the plan of exclusive use areas, to be used by him or her for the purposes indicated on the schedule to the plan concerned.

(2) A body corporate must take all necessary steps in its power to ensure that the exclusive use areas are reserved for the exclusive use of the owners entitled to such use in terms of subrule (1).

(3) An owner may not place any structure or building improvement on his or her exclusive use area without the prior written approval of the trustees, which approval may not be withheld unreasonably.

(4) An owner is obliged to -

(a) maintain the exclusive use area of which he or she has the exclusive use as if it were part of his or her section, and

(b) take all reasonable and necessary steps to keep the area in a clean, hygienic, neat and attractive condition.

(5) An owner may not use his or her exclusive use area or permit it to be used in a manner or for purposes as are likely to impair the safety, appearance or amenity of other sections or other parts of the common property.

(6) An owner of a section must -

(a) permit the body corporate and other owners access across his or her exclusive use area for any purpose reasonably required for the maintenance of the garden areas of the other owners; and

(b) allow the body corporate access to and across his or her exclusive use area -

(i) for any purpose reasonably required for the maintenance of the common property and any local authority related service; and

(ii) for the purpose of implementing rule 68 if the body corporate so require.

Parking areas

70. (1) Subject to subrule (6) and despite the fact that parking areas, if so provided on the common property, are in terms of a sectional plan relating to the sectional title scheme as filed with the Registrar of Deeds, part of the common property, the owner of each section comprised in the scheme is entitled, subject to subrules (2), (3), (4), (5), (6) and (7), to the exclusive use, occupation and enjoyment, to the exclusion of the rights of all other owners and all other persons, of the area numbered and corresponding to the number of the section marked on the plan of exclusive use areas, specifically relating to parking areas, to be used by him or her as a parking area.

(2) Subject to subrule (1), the body corporate must take all necessary steps in its power to ensure that a parking area is reserved for the exclusive use of the owners entitled to parking.

(3) An owner may not place any structure or building improvement on his or her parking areas without the prior written approval of the trustees, which approval may not be withheld unreasonably.

(4) An owner is obliged to -

- (a) maintain the parking area of which he or she has the exclusive use as if it were part of his or her section, and
- (b) take all reasonable and necessary steps to keep it in a clean, hygienic, neat and attractive condition.

(5) An owner may not use his or her parking area or permit it to be used in a manner or for purposes as are likely to impair the safety, appearance or amenity of other sections or other parts of the common property.

(6) An owner of a section must -

- (a) permit the body corporate and other owners access to his or her parking area for any purpose reasonably required for the maintenance of the parking area of the other owners; and
- (b) allow the body corporate access to and across his or her parking area -
 - (i) for any purpose reasonably required for the maintenance of the common property; and
 - (ii) for the purpose of implementing rule 68, if the body corporate so require.

(7) Except where a section is let, owners of sections may not let parking areas allocated to them in terms of this rule without the prior written approval of the trustees, which approval may not be withheld unreasonably.

Determination of disputes by arbitration

71. (1) Any dispute between the body corporate and an owner of a section or between owners of sections, arising out of or in connection with or relating to the Act or these rules must be determined in accordance with these rules, except if an interdict or any form of urgent or other relief may be required or obtained from the Court.

(2) If a dispute referred to in subrule (1) arises, the aggrieved party must -

- (a) notify the other interested party or parties in writing; and
- (b) serve or cause to be served copies of the notification on the trustees and on the management agent, if any.

(3) If a dispute referred to in subrule (1) cannot be resolved within 14 days after the service of a notice, either of the parties may demand that the dispute be referred to arbitration.

(4) Having regard to -

- (a) the nature and complexity of a dispute; and
- (b) the costs which may be involved in the adjudication,

the parties may appoint an arbitrator who must be an independent, experienced and qualified person as may be agreed between the parties to the dispute.

(5) If the parties cannot agree on the arbitrator to be appointed in terms of subrule (4) within three days after the arbitration had been demanded, the body corporate must -

- (a) on the written application of the parties; and
- (b) on payment of the prescribed fee, if any,

appoint an arbitrator in writing within seven days after receipt of the written application, for the purpose of finalising the arbitration as provided for in subrule (8).

(6) Arbitration in terms of this rule must be held informally and in the manner determined by the arbitrator.

(7) The arbitrator may demand that the party who applied for the arbitration must furnish the arbitrator with security for payment of the costs of the arbitration in the amount and form as the arbitrator may determine, failing which the arbitrator may refuse to proceed with the arbitration.

(8) If practicable, the arbitration is concluded within 21 days after the matter has been referred to arbitration in terms of subrule (3) or after security for costs has been furnished in terms of subrule (7).

(9) The arbitrator -

- (a) must have regard, in the conducting of the arbitration, to the principles laid down by these rules;
- (b) must deliver his or her decision within seven days after the date of the completion of the arbitration; and
- (c) may determine that the costs pertaining to the arbitration be paid by any one of the disputing parties or by them jointly in the shares as he or she may determine.

(10) The decision of the arbitrator made in terms of subrule (9) is final and binding and may be made an order of Court upon the application of any of the parties to the arbitration.

Expropriation

72. (1) If at any time, the whole or any part of or any rights in a common property are expropriated, every owner of a section is considered to have appointed the trustees as his or her duly authorised agents -

- (a) to negotiate and settle the compensation payable to the owner and to that end, to employ legal practitioners and experts; and
- (b) to, on behalf of the owner, receive and give valid quittance for any compensation moneys paid.

(2) Any compensation moneys received by the trustees on behalf of owners in terms of subrule (1) must be paid to the owners in accordance with their participation quotas, unless any owner notifies the trustees before the moneys are so distributed that he or she considers that distribution to be inequitable, in which event the compensation moneys must be distributed either -

- (a) in accordance with a scheme approved by unanimous resolution of the owners; or
- (b) in accordance with a scheme approved by an arbitrator.

(3) If the whole or any part of or any rights in a common property are expropriated, any owner of a section may refer, subject to this rule, the formulation of a scheme as contemplated in subrule (2) to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

(4) Subject to subrule (5), in formulating a scheme as contemplated in subrule (2), the owner of a section and the arbitrator must have due regard to the quantum of damages suffered by each owner as a result of the expropriation.

(5) If the exclusive rights of any particular owner of a section to use the common property have been affected by an expropriation, the scheme must provide, if reasonably practicable, for the election to the owner of the exclusive use of another part of the common property for the same purpose.

Payment of legal costs

73. An owner of a section is liable for and must pay all legal costs, including costs between attorney and client and collection commission, expenses and charges incurred by a body corporate in obtaining compliance with any of the owners obligations in terms of the Act, these rules or any house rules.

Payment of costs relating to clearance certificate or building compliance certificate

74. If a body corporate incurs any expense in connection with the furnishing of a clearance certificate or a building compliance certificate the costs are recoverable from the owner of the section concerned.

Payment of charge in respect of supply of services to exclusive use area

75. Despite anything to the contrary in these rules, the owner of any exclusive use area in which a servant is accommodated is liable to pay to the body corporate a charge, as determined by the trustees from time to time, in respect of the supply of services such as water and electricity to the area concerned.

PART 3 CONDUCT RULES

Animals, reptiles, birds and other pets

76. (1) Subject to subrule (3), an owner of a section may not keep any animal, reptile, bird or other pet in a section or on the common property without the approval in writing of the trustees, which approval may not unreasonably be withheld.

(2) When granting approval in terms of subrule (1) the trustees may impose reasonable conditions.

(3) The keeping of any animal, reptile, bird or other pet in terms of this rule may not be in conflict with any other law.

(4) The trustees may withdraw approval given in terms of subrule (1) if the owner concerned is in breach of any condition imposed in terms of subrule (2).

Refuse disposal

77. An owner of a section must -
- (a) maintain, within his or her section, his or her exclusive use area or on the part of the common property as approved by the trustees in writing, a receptacle for refuse, which receptacle must be kept in an hygienic and a dry condition to the satisfaction of the trustees;
 - (b) ensure that before refuse is placed in the receptacle, it is securely wrapped or in the case of tins or other containers, completely drained and dry;
 - (c) for the purpose of having the refuse collected, place the receptacle within the area and at the times designated by the trustees in writing; and
 - (d) when the refuse has been collected, promptly return the receptacle to any of the areas referred to in paragraph (a).

Vehicles

78. (1) An owner of a section may only park a vehicle upon the common property or allow any vehicle to be so parked with the approval of the trustees in writing.

(2) The trustees may remove or cause to be removed or towed away, at the risk and expense of the owner of the vehicle concerned, any vehicle parked on the common property in contravention of subrule (1).

(3) An owner of a section must ensure that his or her vehicle and any vehicle of his or her visitors do not spill oil, brake fluid or any other fluid on to the common property, or in any other way deface or soil the common property.

(4) An owner of a section may not dismantle or effect major repairs to any vehicle on any portion of the common property, an exclusive use area or in a section.

Damage, alterations or additions to common property

79. (1) Subject to subrule (2), an owner of a section may not mark, paint, drive nails or screws or the like into, or otherwise damage or alter, any part of the common property without first obtaining the written approval of the trustees, which approval may not be withheld unreasonably.

(2) An owner of a section or a person authorised by him or her may install, with the written approval of the trustees, which approval may not be withheld unreasonably -

- (a) a locking device, safety gate, burglar bars or other safety device for the protection of his or her section; or
- (b) a screen or other device to prevent the entry of animals or insects, on the common property.

Appearance of sections

80. An owner of a section may not place or do anything on any part of the common property, including the balconies, patios, verandas or gardens which, in the discretion of the trustees, are aesthetically displeasing or undesirable.

Signs and notices

81. An owner of a section may only with the prior written approval of the trustees, which approval may not be withheld unreasonably, place any sign, notice, billboard or advertisement or any kind whatsoever on any part of the common property or of a section, so as to be visible from outside the section.

Littering

82. An owner of a section may not deposit or throw, or allow to be deposited or thrown, on or onto the common property any litter whatsoever.

Laundry

83. An owner of a section may only with the prior written approval of the trustees, which approval may not be withheld unreasonably, erect his or her own washing lines or hang any washing or laundry or any other items on the washing lines or on any part of the building or the common property so as to be visible from outside the buildings or from any other section.

Storage of combustible material or other dangerous acts

- 84.** An owner of a section may not –
- (a) store any combustible or flammable material;
 - (b) perform any dangerous act; or
 - (c) allow the storing of combustible or flammable material or the performance of a dangerous act to be done,

in the building or on the common property, which increases or may increase the rate of the premium payable by the body corporate in respect of any insurance policy.

Eradication of pests

- 85.** (1) An owner of a section must –
- (a) keep his or her section free of white ants, wood-worms, wood-mites and any other wood destroying insects; and
 - (b) permit the trustees, the management agent or their duly authorised agents or employees, to enter upon his or her section from time to time for the purpose of –
 - (i) inspecting the section; and
 - (ii) taking the action as may be reasonably necessary to eradicate any of the pests referred to in paragraph (a) which may be found in or on his or her section.
- (2) The costs of –
- (a) an inspection referred to in subrule (1)(b);
 - (b) the eradicating of any pests found in or on the section as a result of the inspection; or

- (c) the replacement of any woodwork or other material forming part of the section which may be damaged by any pests,

are borne by the owner of the section concerned.

Noise

86. An owner of a section may not create or cause to be emitted from any source any noise which causes or results in a nuisance or disturbance to others.
