Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 552 **Cape Town** **14 June 2011** **No. 34367**

THE PRESIDENCY

No. 518 14 June 2011

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

No. 8 of 2011: Sectional Titles Schemes Management Act, 2011.

AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 11 June 2011)

ACT

To provide for the establishment of bodies corporate to manage and regulate sections and common property in sectional titles schemes and for that purpose to apply rules applicable to such schemes; to establish a sectional titles schemes management advisory council; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF ACT

Sections

1. Definitions
2. Bodies corporate
3. Functions of bodies corporate
4. Powers of bodies corporate
5. Additional powers of bodies corporate
6. Meetings of bodies corporate
7. Trustees of bodies corporate
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11. Effect of quotas and variation thereof
12. Expropriation of common property
13. Duties of owners
14. Insurance by owners
15. Recovery from owners of unsatisfied judgments against bodies corporate and non-liability of bodies corporate for debts and obligations of developers
16. Appointment of administrators
17. Destruction of or damage to buildings
18. Sectional Titles Schemes Management Advisory Council
19. Regulations
20. Amendment of Act 95 of 1986
21. Transitional arrangements
22. Short title and commencement

Definitions

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

"Advisory Council" means the Sectional Titles Schemes Management Advisory Council established by section 18;

"body corporate", in relation to a building and the land in a sectional title scheme, means the body corporate of that building referred to in section 2(1);

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

"chief ombud" means chief ombud as defined in section 1 of the Community Schemes Ombud Service Act, 2010;

"common property", in relation to a scheme, means—

(a) the land included in the scheme;

(b) such parts of the building or buildings as are not included in a section; and

(c) land referred to in section 5(1)*(d)*;

"competent authority" means a person or organisation that has the legally delegated authority or power to perform a designated function;

"Court" means the High Court having jurisdiction;

"deeds registry" means a deeds registry as defined in the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"Department" means the Department of Human Settlements;

"developer" means a person who is the registered owner of land, situated within the area of jurisdiction of a local municipality, on which is situated or to be erected a building or buildings which he or she has divided or proposes to divide into two or more sections in terms of a scheme, or his or her successor in title and includes, for the purposes of rebuilding any building that is deemed to have been destroyed as contemplated in section 17, the body corporate concerned;

"development scheme" means a scheme in terms of which a building or buildings situated or to be erected on land within the area of jurisdiction of a local municipality is or are, for the purposes of selling, letting or otherwise dealing therewith, to be divided into two or more sections;

"Director-General" means the Director-General of Human Settlements;

"exclusive use area" means a part or parts of the common property for the exclusive use by the owner or owners of one or more sections;

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

"lease", for the purposes of section 5(1)*(a)*, means a lease which—

(a) was entered into for a period of not less than 10 years;

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

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

"local municipality" means local municipality as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"Minister" means the Minister of Human Settlements;

"ombud" means ombud as defined in section 1 of the Community Schemes Ombud Service Act, 2010;

"owner", in relation to a unit or a section or an undivided share in the common property forming part of such unit, means, subject to subsection (5), the person in whose name the unit is registered at a deeds registry in terms of the Sectional Titles Act or in whom ownership is vested by statute, including the trustee in an insolvent estate, the liquidator of a company or close corporation which is an owner, the

executor of an owner who has died, or the representative of an owner, who is a minor or of unsound mind, recognised by law, and **"owned"** and **"ownership"** have a corresponding meaning;

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

"prescribed" means prescribed by regulation;

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

"registrar" means a registrar of deeds as defined in the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"regulation" means a regulation made under this Act;

"rules", in relation to a building which is divided into sections and common property, means the management rules and conduct rules referred to in section 10(2)*(a)* and *(b)*, respectively;

"scheme" means a development scheme;

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

"sectional mortgage bond" means a mortgage bond hypothecating—

(a) a unit or an exclusive use area, land or an undivided share in such unit, area or land held under a separate sectional title deed; or

(b) a registered lease or sub-lease of any such unit, exclusive use area or land or an undivided share in such unit, area or land which when it was entered into, was for a period of not less than 10 years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than 10 years; or

(c) any other registered real right in or over any such unit or undivided share in a unit or common property or the rights referred to in sections 25 and 27 of the Sectional Titles Act;

"sectional plan", in relation to a scheme, means a plan approved by the Surveyor-General which—

(a) is described as a sectional plan;

(b) shows the building or buildings and the land comprised in the scheme, as divided into two or more sections and common property; and

(c) complies with the requirements of section 5 of the Sectional Titles Act,

and includes a sectional plan of subdivision, consolidation or extension as provided for in the Sectional Titles Act;

"Sectional Titles Act" means the Sectional Titles Act, 1986 (Act No. 95 of 1986), as amended;

"special resolution" means a resolution—

(a) passed by at least 75% calculated both in value and in number, of the votes of the members of a body corporate who are represented at a general meeting; or

(b) agreed to in writing by members of a body corporate holding at least 75% calculated both in value and in number, of all the votes;

"this Act" includes regulations;

"unanimous resolution" means a resolution—

(a) passed unanimously by all the members of the body corporate at a meeting at which—

(i) at least 80% calculated both in value and in number, of the votes of all the members of a body corporate are present or represented; and

(ii) all the members who cast their votes do so in favour of the resolution; or

(b) agreed to in writing by all the members of the body corporate.

(2) For the purposes of the definition of owner—

(a) if a unit is subject to a lease for a period of 99 years or longer or for the life of the building or buildings concerned and registered in a deeds registry, the holder of such lease is considered to be the owner for the duration of that lease; and

(b) if a unit is registered in a deeds registry—

(i) in the names of both spouses in a marriage in community of property; or

(ii) in the name of only one spouse and forms part of the joint estate of both spouses in a marriage in community of property,

either one or both of the spouses are considered to be the owner.

Bodies corporate

2. (1) With effect from the date on which any person other than the developer becomes an owner of a unit in a scheme, there shall be deemed to be established for that scheme a body corporate of which the developer and such person are members, and any person who thereafter becomes an owner of a unit in that scheme is a member of that body corporate.

(2) The developer ceases to be a member of the body corporate when he or she ceases to have a share in the common property as contemplated in section 34(2) of the Sectional Titles Act.

(3) Any other member of the body corporate ceases to be a member thereof when such member ceases to be the owner of a unit in the scheme in question.

(4) The body corporate must be designated as the ''Body Corporate'' and must have the name and number contemplated in sections 5(3)*(b)* and 12(1)*(a)* of the Sectional Titles Act, respectively.

(5) The body corporate is, subject to the provisions of this Act, responsible for the enforcement of the rules and for the control, administration and management of the common property for the benefit of all owners.

(6) The provisions of the Companies Act, 2008 (Act No. 71 of 2008), do not apply in relation to the body corporate.

(7) The body corporate has perpetual succession and is capable of suing and of being sued in its corporate name in respect of—

(a) any contract entered into by the body corporate;

(b) any damage to the common property;

(c) any matter in connection with the land or building for which the body corporate is liable or for which the owners are jointly liable;

(d) any matter arising out of the exercise of any of its powers or the performance or non-performance of any of its duties under this Act or any rule; and

(e) any claim against the developer in respect of the scheme if so determined by special resolution.

(8) *(a)* A developer must convene a meeting of the members of the body corporate not more than 60 days after the establishment of the body corporate.

(b) The agenda for the meeting is as prescribed in the management rules for the meeting.

(c) At such meeting the developer must furnish the members with—

(i) a copy of the sectional plan;

(ii) a certificate from the local authority to the effect that all rates due by the developer up to the date of the establishment of the body corporate have been paid; and

(iii) proof of revenue and expenditure concerning the management of the scheme from the date of the first occupation of any unit until the date of the establishment of the body corporate.

(9) The developer must pay over to the body corporate any residue referred to in subsection (8)*(c)*(iii).

(10) A developer who fails to comply with subsections (8) and (9) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(11) The developer must promptly on demand pay any moneys due in terms of section 3(1)*(c)* to the body corporate.

(12) Any reference in any law or document to a body corporate established in terms of the Sectional Titles Act must, after the commencement of this Act, be constructed as a reference to a ''body corporate'' referred to in section 2 of this Act.

Functions of bodies corporate

3. (1) A body corporate must perform the functions entrusted to it by or under this Act or the rules, and such functions include—

(a) to establish and maintain an administrative fund which is reasonably sufficient to cover the estimated annual operating costs—

(i) for the repair, maintenance, management and administration of the common property (including reasonable provision for future maintenance and repairs);

(ii) for the payment of rates and taxes and other local municipality charges for the supply of electricity, gas, water, fuel and sanitary or other services to the building or land;

(iii) for the payment of any insurance premiums relating to the building or land; and

(iv) for the discharge of any duty or fulfilment of any other obligation of the body corporate;

(b) to establish and maintain a reserve fund in such amounts as are reasonably sufficient to cover the cost of future maintenance and repair of common property but not less than such amounts as may be prescribed by the Minister;

(c) to require the owners, whenever necessary, to make contributions to such funds: Provided that the body corporate must require the owners of sections entitled to the right to the exclusive use of a part or parts of the common property, whether or not such right is registered or conferred by rules, to make such additional contribution to the funds as is estimated necessary to defray the costs of rates and taxes, insurance and maintenance in respect of any such part or parts, including the provision of electricity and water, unless in terms of the rules the owners concerned are responsible for such costs;

(d) to require from a developer who is entitled to extend the scheme in terms of a right reserved in section 25(1) of the Sectional Titles Act, to make such reasonable additional contribution to the funds as may be necessary to defray the cost of rates and taxes, insurance and maintenance of the part or parts of the common property affected by the reservation, including a contribution for the provision of electricity and water and other expenses and costs in respect of and attributable to the relevant part or part;

(e) to determine the amounts to be raised for the purposes of paragraphs *(a)*, *(b)* and *(c)*;

(f) to raise the amounts so determined by levying contributions on the owners in proportion to the quotas of their respective sections;

(g) to open and operate an account with any registered bank or any other financial institution;

(h) to insure the building or buildings and keep it or them insured to the replacement value thereof against fire and such other risks as may be prescribed;

(i) to insure against such other risks as the owners may by special resolution determine;

(j) subject to section 17 and to the rights of the holder of any sectional mortgage bond, forthwith to apply any insurance money received by it in respect of damage to the building, in rebuilding and reinstating the building or buildings in so far as this may be effected;

(k) to pay the premiums on any insurance policy effected by it;

(l) to maintain all the common property and to keep it in a state of good and serviceable repair;

(m) to comply with any notice or order by any competent authority requiring any repairs to or work in respect of the relevant land or building;

(n) to comply with any reasonable request for the names and addresses of the persons who are the trustees of the body corporate in terms of the rules or who are members of the body corporate;

(o) to notify the chief ombud, the local municipality concerned and the registrar of its domicilium *citandi et executandi*, which is its address for service of any process;

(p) to ensure compliance with any law relating to the common property or to any improvement of land comprised in the common property;

(q) to maintain any plant, machinery, fixtures and fittings used in connection with the common property and sections and to keep them in a state of good and serviceable repair;

(r) subject to the rights of the local municipality concerned, to maintain and repair including renewal where reasonably necessary, pipes, wires, cables and ducts existing on the land and capable of being used in connection with the enjoyment of more than one section or of the common property or in favour of one section over the common property;

(s) on the written request of any owner or registered mortgagee of a section, to produce to such owner or mortgagee, or any person authorised in writing by such owner or mortgagee, the insurance policy effected by the body corporate and the receipt for the last premium in respect thereof; and

(t) in general, to control, manage and administer the common property for the benefit of all owners.

(2) Liability for contributions levied under any provision of subsection (1), save for special contributions contemplated by subsection (4), accrues from the passing of a resolution to that effect by the trustees of the body corporate, and may be recovered by the body corporate by an application to an ombud from the persons who were owners of units at the time when such resolution was passed: Provided that upon the change of ownership of a unit, the successor in title becomes liable for the pro rata payment of such contributions from the date of change of such ownership.

(3) Any special contribution becomes due on the passing of a resolution in this regard by the trustees of the body corporate levying such contribution and may be recovered by the body corporate by an application to an ombud, from the persons who were owners of units at the time when such resolution was passed: Provided that upon the change of ownership of a unit, the successor in title becomes liable for the pro rata payment of such contributions from the date of change of such ownership.

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

(5) The body corporate must, annually or whenever there is a change in levy, certify in writing—

(a) the amount determined as the contribution of each owner;

(b) the manner in which such contribution is payable; and

(c) the extent to which such contribution has been paid by each owner.

(6) The body corporate is, for the purposes of effecting any insurance under subsection (1)*(h)*, considered to have an insurable interest for the replacement value of the building and must, for the purposes of effecting any other insurance under that subsection, be considered to have an insurable interest in the subject matter of such insurance.

Powers of bodies corporate

4. The body corporate may exercise the powers conferred upon it by or under this Act or the rules, and such powers include the power—

(a) to appoint such agents and employees as the body corporate may consider fit;

(b) when essential for the proper fulfilment of its duties and upon special resolution, to purchase or otherwise acquire, take transfer of, mortgage, sell, give transfer of or hire or let units;

(c) to purchase, hire or otherwise acquire movable property for the use of owners for their enjoyment or protection or in connection with the enjoyment or protection of the common property;

(d) where practicable, to establish and maintain on the common property suitable lawns, gardens and recreation facilities;

(e) upon special resolution, to borrow moneys required by it in the performance of its functions or the exercise of its powers;

(f) to secure the repayment of moneys borrowed by it and the payment of interest thereon, by notarial bond over unpaid contributions whether levied or not, or by mortgaging any property vested in it;

(g) to invest any moneys of the fund referred to in section 3(1)*(a)*;

(h) to enter into an agreement with any owner or occupier of a section for the provision of amenities or services by the body corporate to such section or to the owner or occupier thereof, including, upon special resolution, the right to let a portion of the common property to any such owner or occupier by means of a lease other than a lease contemplated in section 5(1)*(a)*;

(i) to do all things reasonably necessary for the enforcement of the rules and for the management and administration of the common property.

Additional powers of bodies corporate

5. (1) In addition to the body corporate's main functions and powers under sections 3 and 4, the body corporate—

(a) may, upon unanimous resolution, on direction by the owners and with the written consent of any holder of a right of extension contemplated in section 25 of the Sectional Titles Act, alienate common property or any part thereof, or let the common property or any part thereof under a lease, and thereupon the body corporate may, subject to section 17(1) of the Sectional Titles Act, deal with such common property or such part thereof in accordance with the direction and may execute any deed required for this purpose, including any deed required under the Sectional Titles Act;

(b) may, with the written consent of all the owners as well as the written consent of the mortgagee of each unit in the scheme, alienate, or in terms of the Sectional Titles Act exercise or cede, a right of extension of the scheme by the

addition of sections: Provided that an owner or mortgagee may not withhold such approval without good cause in law;

(c) may, upon unanimous resolution by the owners, enter into a notarial agreement to extend the period stipulated in the condition referred to in section 25(1) of the Sectional Titles Act.

(d) may, subject to subsection (2), purchase land to extend the common property, if duly authorised thereto in writing by all the owners;

(e) may, upon unanimous resolution by the owners, request the delineation and cession of exclusive use rights to particular owners in terms of section 27(2) of the Sectional Titles Act;

(f) may, upon special resolution by owners, enter into a notarial deed of cancellation of an exclusive use right in terms of section 27(5) of the Sectional Titles Act;

(g) may, upon special resolution by the owners, execute on behalf of the owners a servitude or a restrictive agreement burdening the land shown on the relevant sectional plan and may accept on their behalf a servitude or restrictive agreement benefiting such land, as contemplated in section 29 of the Sectional Titles Act;

(h) must, on application by an owner and upon special resolution by the owners, approve the extension of boundaries or floor area of a section in terms of the Sectional Titles Act; and

(i) may generally exercise any power and perform any function conferred or imposed on the body corporate in terms of this Act or the Sectional Titles Act.

(2) Land purchased by a body corporate in terms of subsection (1)*(d)*—

(a) must be registered in the name of the body corporate in terms of the Sectional Titles Act and the Deeds Registries Act, 1937 (Act No. 47 of 1937); and

(b) is considered to be owned by the owners of sections in the building concerned in the same proportion as their participation quota as contemplated in section 26(2) of the Sectional Titles Act.

Meetings of bodies corporate

6. (1) The meetings of the body corporate must take place at such time and in such form as may be determined by the body corporate.

(2) The body corporate must, at least 30 days prior to a meeting of the body corporate where a special resolution or unanimous resolution will be taken, give all the members of the body corporate written notice specifying the proposed resolution, except where the rules provide for shorter notice.

(3) The notice contemplated in subsection (2) must be—

(a) delivered by hand to a member;

(b) sent by pre-paid registered post to the address of a member's section in the relevant scheme; or

(c) sent by pre-paid registered post to a physical or postal address in the Republic of South Africa that a member has chosen in writing for the purposes of such notice.

(4) In addition to subsection (3), a notice contemplated in subsection (2) may also be sent to a member by fax or email.

(5) A member may be represented in person or by proxy at such meeting: Provided that a person must not act as a proxy for more than two members.

(6) When votes are calculated in value, each member's vote is calculated either—

(a) as the total of the quotas allocated to the sections registered in that member's name; or

(b) in accordance with a rule made in terms of section 10(2), whichever is applicable.

(7) When votes are calculated in number, each member has one vote.

(8) Where the unanimous resolution would have an unfairly adverse effect on any member, the resolution is not effective unless that member consents in writing within seven days from the date of the resolution.

(9) A body corporate or an owner who is unable to obtain a special or unanimous resolution may approach the chief ombud for relief.

Trustees of body corporate

7. (1) The functions and powers of the body corporate must, subject to the provisions of this Act, the rules and any restriction imposed or direction given at a general meeting of the owners of sections, be performed and exercised by the trustees of the body corporate holding office in terms of the rules.

(2) *(a)* In addition to the functions contemplated in subsection (1), the trustees of the body corporate must receive and may consent to applications for subdivision of sections or consolidation of sections, made by the owners of sections.

(b) Such consent must not unreasonably be withheld by the trustees.

(3) For the purposes of an agreement in respect of the beacons and boundaries of the common property required in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), the trustees are deemed to be the owner of the land.

Fiduciary position of trustees

8. (1) Each trustee of a body corporate must stand in a fiduciary relationship to the body corporate.

(2) Without derogating from the generality of the expression ''fiduciary relationship'', the provision of subsection (1) implies that a trustee—

(a) must in relation to the body corporate act honestly and in good faith, and in particular—

(i) exercise his or her powers in terms of this Act in the interest and for the benefit of the body corporate; and

(ii) not act without or exceed those powers; and

(b) must avoid any material conflict between his or her own interests and those of the body corporate, and in particular—

(i) not receive any personal economic benefit, direct or indirect, from the body corporate or from any other person; and

(ii) notify every other trustee of the nature and extent of any direct or indirect material interest which he or she may have in any contract of the body corporate, as soon as such trustee becomes aware of such interest.

(3) A trustee of a body corporate who acts in breach of his or her fiduciary relationship, is liable to the body corporate for—

(a) any loss suffered as a result thereof by the body corporate; or

(b) any economic benefit received by the trustee by reason thereof.

(4) Except as regards the duty referred to in subsection (2)*(a)*(i), any particular conduct of a trustee does not constitute a breach of a duty arising from his or her fiduciary relationship to the body corporate if such conduct was preceded or followed by the written approval of all the members of the body corporate where such members were or are cognisant of all the material facts.

Proceedings on behalf of bodies corporate

9. (1) An owner may initiate proceedings on behalf of the body corporate in the manner prescribed in this section—

(a) when such owner is of the opinion that he or she and the body corporate have suffered damages or loss or have been deprived of any benefit in respect of a matter mentioned in section 2(7), and the body corporate has not instituted proceedings for the recovery of such damages, loss or benefit; or

(b) when the body corporate does not take steps against an owner who does not comply with the rules.

(2) *(a)* Any such owner must serve a written notice on the body corporate calling on the body corporate to institute such proceedings within one month from the date of service of the notice, and stating that if the body corporate fails to do so, an application to the Court under paragraph *(b)* will be made.

(b) If the body corporate fails to institute the proceedings within the period referred to in paragraph *(a)*, the owner may make application to the Court for an order appointing a *curator ad litem* for the body corporate for the purpose of instituting and conducting proceedings on behalf of the body corporate.

(3) The Court may on such application, if it is satisfied—

(a) that the body corporate has not instituted such proceedings;

(b) that there are *prima facie* grounds for such proceedings; and

(c) that an investigation into such grounds and into the desirability of the institution of such proceedings is justified,

appoint a provisional *curator ad litem* and direct him or her to conduct an investigation into the matter and to report to the Court on the return day of the provisional order.

(4) The Court may on the return day discharge the provisional order referred to in subsection (3), or confirm the appointment of the *curator ad litem* for the body corporate, and issue such directions as it may consider necessary to the institution of proceedings in the name of the body corporate and the conduct of such proceedings on behalf of the body corporate by the *curator ad litem*.

(5) A provisional *curator ad litem* appointed by the Court under subsection (3) or a *curator ad litem* whose appointment is confirmed by the Court under subsection (4), has such powers as may be prescribed, in addition to the powers expressly granted by the Court in connection with the investigation, proceedings and enforcement of a judgment.

(6) If the disclosure of any information about the affairs of a body corporate to a provisional *curator ad litem* or a *curator ad litem* would in the opinion of the body corporate be harmful to the interests of the body corporate, the Court may on an application for relief by that body corporate, and if it is satisfied that the said information is not relevant to the investigation, grant such relief.

(7) The Court may, if it appears that there is reason to believe that an applicant in respect of an application under subsection (2) will be unable to pay the costs of the respondent body corporate if successful in its opposition, require sufficient security to be given for those costs and the costs of the provisional *curator ad litem* before a provisional order is made.

Rules

10. (1) A scheme must as from the date of the establishment of the body corporate be regulated and managed, subject to the provisions of this Act, by means of rules.

(2) The rules must provide for the regulation, management, administration, use and enjoyment of sections and common property, and comprise—

(a) management rules, as prescribed, which rules may subject to the approval of the chief ombud be substituted, added to, amended or repealed by the developer when submitting an application for the opening of a sectional title register, to the extent prescribed by regulation, and which rules may be substituted, added to, amended or repealed by unanimous resolution of the body corporate as prescribed; and

(b) conduct rules, as prescribed, which rules may, subject to the approval of the chief ombud, be substituted, added to, amended or repealed by the developer when submitting an application for the opening of a sectional title register, and which rules may be substituted, added to, amended or repealed by special resolution of the body corporate, as prescribed: Provided that such conduct rules may not be irreconcilable with any prescribed management rule contemplated in paragraph *(a)*.

(3) The management or conduct rules contemplated in subsection (2) must be reasonable and apply equally to all owners of units.

(4) The management or conduct rules referred to in subsection (2) take effect from the date of establishment of the body corporate in respect of the building or buildings and land concerned, and bind the body corporate and the owners of the sections and any person occupying a section.

(5) *(a)* If the management or conduct rules contemplated in subsection (2) are substituted, added to, amended or repealed, the developer or the body corporate must lodge with the chief ombud a notification in the prescribed form of such substitution, addition, amendment or repeal.

(b) The chief ombud must examine any proposed substitution, addition, amendment or repeal referred to in paragraph *(a)* and must not approve it for filing unless he or she is satisfied that such substitution, addition, amendment or repeal is reasonable and appropriate to the scheme.

(c) If the chief ombud approves the substitution, addition, amendment or repeal of rules for filing, he or she must issue a certificate to that effect.

(d) A substitution, addition, amendment or repeal of rules contemplated in paragraph *(a)* comes into operation on the date of the issuing of a certificate contemplated in paragraph *(c)* or the opening of the sectional title register for the scheme, whichever is the latest.

(6) The body corporate must—

(a) keep a copy of all rules;

(b) have the rules available for inspection at meetings of trustees and owners;

(c) deliver a copy of the rules to each person who becomes an owner or occupier;

(d) deliver to all owners a copy of any rules substituted, added or amended and details of any rules repealed in terms of subsection (5);

(e) on request by an owner or any person authorised in writing by an owner, deliver a copy of all rules to such owner.

(7) A developer or a body corporate may make management or conduct rules which confer rights of exclusive use and enjoyment of parts of the common property upon members of the body corporate.

(8) The rules contemplated in subsection (7) must—

(a) include a layout plan to scale on which is clearly indicated—

(i) the locality of the distinctively numbered exclusive use and enjoyment parts; and

(ii) the purposes for which such parts may be used; and

(b) include a schedule indicating to which owner each such part is allocated.

(9) Rules decided on by unanimous resolution under the repealed Sectional Titles Act, 1971, or any other provision before 1 June 1988 replacing rules contained in Schedule 1 to that Act, and at the said date not yet lodged with the registrar as contemplated in section 27(3) of that Act, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)*(a)*, by prescribed management rules contemplated in that subsection.

(10) *(a)* Unaltered rules contained in Schedule 1 to the repealed Sectional Titles Act, 1971, or any other provision and applying immediately prior to 1 June 1988 in respect of any scheme, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)*(a)*, by the prescribed management rules contemplated in that subsection.

(b) Unaltered rules contained in Schedule 2 to the repealed Sectional Titles Act, 1971, or any other provision and so applying in respect of any scheme, lapsed on that date, and such rules are considered to have been replaced, subject to addition, amendment or repeal as contemplated in subsection (2)*(b)*, by the prescribed conduct rules contemplated in that subsection.

(11) Any rules other than rules referred to in subsection (10) which applied in respect of a scheme immediately prior to 1 June 1988 must, subject to such substitution,

addition, amendment or repeal as contemplated in subsection (2)*(a)* or *(b)*, as the case may be, remain in force after the said date, except to the extent that any such rule may be irreconcilable with any prescribed management rules contemplated in subsection (2)*(a)*, in which case the management rules concerned applies: Provided that any such rules were as from 1 June 1988 considered to be supplemented by any rule in the prescribed management rules which is not provided for in such rules.

(12) Any rules made under the Sectional Titles Act are deemed to have been made under this Act.

Effect of quotas and variation thereof

11. (1) Subject to subsection (2), the quota of a section must determine—

(a) the value of the vote of the owner of the section, in any case where the vote is to be reckoned in value;

(b) the undivided share in the common property of the owner of the section; and

(c) subject to section 3(1)*(b)*, the proportion in which the owner of the section must make contributions for the purposes of section 3(1)*(a)* or may in terms of section 14 (1) be held liable for the payment of a judgment debt of the body corporate of which he or she is a member.

(2) *(a)* Subject to section 3(1)*(b)*, the developer may, when submitting an application for the opening of a sectional title register in terms of the Sectional Titles Act, or the members of the body corporate may by special resolution, make rules under section 10 by which a different value is attached to the vote of the owner of any section, or the liability of the owner of any section to make contributions for the purposes of section 3(1)*(a)* or 14(1) is modified.

(b) Where an owner is adversely affected by such a decision of the body corporate, his or her prior written consent must be obtained.

(c) The members of the body corporate may not make rules by which a different value is attached to the vote or liability of the owner of any section as contemplated in paragraph *(a)* until such time as there are owners, other than the developer, of at least 30 per cent of the units in the scheme.

(d) Where the developer alienates a unit before the opening of a sectional title register in terms of the Sectional Titles Act, the developer may not make rules by which a different value is attached to the vote or liability of the owner of any section as contemplated in paragraph *(a)*, unless the developer has disclosed such intention in all deeds of alienation.

Expropriation of common property

12. (1) *(a)* Whenever the whole or any part of, or any right in, the common property is expropriated in terms of any law, service of a notice of expropriation on the body corporate is considered to be service thereof on the registered owner of every section in the building or buildings concerned.

(b) Each and every such owner is considered to have appointed the trustees of the body corporate concerned as his or her duly authorised agents and representatives—

(i) to negotiate and settle the compensation payable to him or her, and to that end to employ attorneys, advocates and other experts; and

(ii) on his or her behalf, to receive and give valid acquittance for any compensation moneys paid.

(2) Any compensation moneys received by the trustees on behalf of the owners in terms of subsection (1), must be paid to the owners in accordance with their participation quotas after they have received notice of such distribution in writing: Provided that an owner may notify the trustees within 30 days of receipt of such notice but before such moneys are so distributed that he or she considers such a distribution inequitable, in which event the compensation moneys must be distributed—

(a) in accordance with a distribution approved by unanimous resolution; or

(b) in accordance with a distribution determined on application to an ombud.

Duties of owners

13. (1) An owner must—

(a) permit any person authorised in writing by the body corporate, during reasonable hours and on notice (except in case of emergency, when no notice is required), to enter his or her section or exclusive use area for the purposes of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts existing in the section and capable of being used in connection with the enjoyment of any other section or common property, or for the purpose of ensuring that this Act and the rules are being observed;

(b) forthwith carry out all work that may be ordered by any competent authority in respect of his or her section, other than such work as may be required for the benefit of the building generally, and pay all charges, expenses and assessments that may be payable in respect of his or her section;

(c) repair and maintain his or her section in a state of good repair and, in respect of an exclusive use area, keep it in a clean and neat condition;

(d) use and enjoy the common property in such a manner as not to interfere unreasonably with the use and enjoyment thereof by other owners or other persons lawfully on the premises;

(e) not use his or her section or exclusive use area, or permit it to be used, in a manner or for a purpose which may cause a nuisance to any occupier of a section;

(f) notify the body corporate forthwith of any change of ownership or occupancy in his or her section and of any mortgage; and

(g) when the purpose for which a section or exclusive use area is intended to be used is shown expressly or by implication on or by a registered sectional plan, not use nor permit such section or exclusive use area to be used for any other purpose: Provided that with the written consent of all owners such section or exclusive use area may be used for that purpose as consented to.

(2) Any owner who is of the opinion that any refusal of consent of another owner in terms of the proviso to subsection (1)*(g)* is unfairly prejudicial, unjust or inequitable to him or her, may, within six weeks after the date of such a refusal, make an application in terms of this subsection to an ombud.

Insurance by owners

14. (1) Notwithstanding the existence of a valid insurance policy effected by the body corporate pursuant to the provisions of section 3(1)*(h)*, an owner may obtain an insurance policy in respect of any damage to his or her section arising from risks not covered by the policy effected by the body corporate.

(2) This section does not limit the rights of an owner to insure against risks other than damage to his or her section.

Recovery from owners of unsatisfied judgment against bodies corporate and non-liability of bodies corporate for debts and obligations of developers

15. (1) *(a)* If a creditor of a body corporate has obtained judgment against the body corporate, and such judgment, notwithstanding the issue of a writ, remains unsatisfied, the judgment creditor may, without prejudice to any other remedy he or she may have and subject to paragraph *(c)*, apply to the Court which gave the judgment, for the joinder of the members of the body corporate in their personal capacities as joint judgment debtors in respect of the judgment debt.

(b) Upon such joinder, the judgment creditor may recover the amount of the judgment debt still outstanding from the said members on a pro rata basis in proportion to their respective quotas or a rule made in terms of section 10(2).

(c) Any member of the body corporate who has paid the contributions due by him or her in terms of section 3(1)*(c)* to the body corporate in respect of the same debt prior to the judgment against the body corporate may not be joined as a joint judgment debtor in respect of the judgment debt.

(2) No debt or obligation arising from any agreement between the developer and any other person is enforceable against the body corporate.

Appointment of administrators

16. (1) A body corporate, a local municipality, a judgment creditor of the body corporate or any owner or other person having a registered real right in or over a unit may apply to a Magistrate's Court for the appointment of a suitably qualified and independent person to serve as the administrator of the body corporate.

(2) *(a)* If a Magistrate's Court on hearing the application referred to in subsection (1) finds—

(i) evidence of serious financial or administrative mismanagement of the body corporate; and

(ii) that there is a reasonable probability that, if it is placed under administration, the body corporate will be able to meet its obligations and be managed in accordance with the requirements of this Act,

the Magistrate's Court may appoint an administrator for a fixed period and on such terms and conditions as it deems fit.

(b) The remuneration and expenses of the administrator are administrative expenses contemplated in section 3(1)*(a)*.

(3) An administrator has, to the exclusion of the body corporate, such powers and duties of the body corporate as the Magistrate's Court directs and must exercise these powers to address the body corporate's management problems as soon as reasonably possible.

(4) The administrator must—

(a) convene and preside at the meetings required in terms of this Act and the scheme's rules; and

(b) lodge with the ombud—

(i) copies of the notices and minutes of meetings; and

(ii) written reports on the administration process every three months or at such shorter intervals as the Magistrate's Court may direct.

(5) A Magistrate's Court may, on application by the administrator or any person or body referred to in subsection (1)—

(a) remove the administrator from office;

(b) replace the administrator;

(c) extend the term of the administrator's appointment or amend his or her terms of appointment; and

(d) may make such order for the payment of costs as the Magistrate's Court considers fit.

(6) The provisions of subsection (4) apply, with the necessary changes required by context, to the administrators appointed in terms of section 46 of the Sectional Titles Act.

Destruction of or damage to buildings

17. (1) The building comprised in a scheme is, for the purpose of this Act, deemed to be destroyed—

(a) upon the physical destruction of the building;

(b) when the owners by unanimous resolution so determine and all holders of registered sectional mortgage bonds and the persons with registered real rights concerned, agree thereto in writing; or

(c) when the Court is satisfied that, having regard to all the circumstances, it is just and equitable that the building must be considered to have been destroyed, and makes an order to that effect.

(2) In any case where an order is made under subsection (1)*(c)*, the Court may impose such conditions and give such directions as it considers fit for the purpose of adjusting the effect of the order between the body corporate and the owners and mutually among

the owners, the holders of registered sectional mortgage bonds and persons with registered real rights.

(3) *(a)* Where the building is damaged or destroyed within the meaning of subsection (1), the owners may by unanimous resolution, or the Court may by order, authorise a scheme—

(i) for the rebuilding and reinstatement in whole or in part of the building;

(ii) for the transfer of the interests of owners of sections which have been wholly or partially destroyed, to other owners.

(b) In the exercise of their powers under this subsection, the owners may pass such resolution as they may consider fit or the Court may make such order as it may consider necessary or expedient to give effect to the scheme, in connection with amongst other things—

(i) the application of insurance moneys received by the body corporate in respect of damage to or the destruction of the building;

(ii) the payment of money by or to the body corporate or by or to the owners or by or to one or more of the owners;

(iii) an amendment of the sectional plan so as to include an addition to or a subtraction from the common property;

(iv) the variation of the quota of any section; or

(v) the imposition of conditions.

(4) An application may, for the purposes of this section, be made to the Court, by the body corporate or by any owner or by any holder of a registered sectional mortgage bond or a registered lease or by any insurer of the building or buildings or any section therein, or by the local municipality.

(5) Any insurer of the building or buildings or any part thereof, has the right to intervene in the proceedings on any application to the Court under this section.

(6) *(a)* The Court may, on the application of a body corporate or any member thereof or administrator or any holder of a registered real right concerned, or any judgment creditor, by order make provision for the winding-up of the affairs of the body corporate.

(b) The Court may, by the same or any subsequent order, declare the body corporate dissolved as from a date specified in the order.

(7) The Court may, with regard to any application under this section, make such order for the payment of costs as it considers fit.

(8) Where two or more buildings are comprised in a scheme, and only one or part of one of the said buildings is damaged or destroyed, the provisions of this section apply, with the necessary changes required by the context, as if the said buildings were one building and part of such building has been damaged or destroyed.

(9) When in terms of subsection (1) the building comprised in a scheme is considered to be destroyed and the owners have by unanimous resolution resolved not to rebuild the building, the body corporate must lodge with the registrar of deeds a notification in the form and with such supporting documents, as may be prescribed in terms of the Sectional Titles Act.

Sectional Titles Schemes Management Advisory Council

18. (1) There is hereby established a Sectional Titles Schemes Management Advisory Council, which must—

(a) make recommendations to the Minister concerning any matter specified in section 19 in respect whereof the Minister may make regulations;

(b) keep the implementation of this Act and the regulations under regular review and must make recommendations to the Minister with regard to any amendments thereof or other action which may be advisable; and

(c) advise the Minister on any matter referred to it by the Minister.

(2) The Advisory Council consists of not more than seven but not less than five members of whom—

(a) one must be the chief ombud, who must act as chairperson at the meetings of the Advisory Council;

(b) one must be a senior official of the department designated by the Director-General; and

(c) the remainder must be persons appointed by the Minister who must have skills, knowledge and experience in the management of a range of types of schemes.

(3) The Minister must appoint one of the members of the Advisory Council as the deputy chairperson.

(4) *(a)* Before the Minister makes an appointment in terms of subsection (2)*(c)*, the Director-General must, on such terms as he or she considers appropriate, establish a nomination committee consisting of not more than seven persons who are broadly representative two of whom must be the chairpersons of the relevant parliamentary committees in each house or their delegates, to nominate persons who meet the requirements of subsection (2)*(c)* for consideration for appointment to the Advisory Council by the Minister.

(b) The persons nominated in terms of paragraph *(a)* must be broadly representative in such a manner as may be prescribed.

(5) A member of the Advisory Council holds office for a period of three years, but the Minister may on reasonable grounds terminate the appointment of such a member at any time before the expiration of such member's period of office.

(6) If a member of the Advisory Council dies or vacates office before the expiration of that member's period of office, the Minister may, subject to the provisions of subsection (2)*(c)*, appoint a person in that member's place for the unexpired period of his or her office.

(7) A member of the Advisory Council whose period of office has expired, may be reappointed but may not serve for more than two consecutive terms.

(8) A member of the Advisory Council, excluding a member in the fulltime service of the State, must, while he or she is engaged in the business of the Advisory Council, be paid such remuneration and travelling and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

(9) In the absence of the chief ombud or his or her deputy, the members present in the meeting of the Advisory Council must elect a member from amongst themselves to act as chairperson of the Advisory Council for the purpose of such meeting.

(10) *(a)* The Advisory Council must meet at such times and places as are determined by the chief ombud.

(b) The Minister may at any time direct the chief ombud to convene a meeting of the Advisory Council at a time and place determined by the Minister.

(11) *(a)* Five members of the Advisory Council form a quorum for a meeting.

(b) A decision of a majority of the members of the Advisory Council present at any meeting of the Advisory Council constitutes a decision of the Advisory Council and, in the event of an equality of votes, the person presiding at the meeting must have a casting vote in addition to his or her deliberative vote.

(12) The Advisory Council may regulate the proceedings at its meetings as it may think fit, and must cause minutes of such proceedings to be kept.

(13) The administrative functions of the Advisory Council must be performed by the employees of the Community Schemes Ombud Service referred to in section 3 of the Community Schemes Ombud Service Act, 2010, who are designated by the chief ombud for that purpose.

Regulations

19. The Minister may after consultation with Parliament make regulations regarding—

(a) any matter required or permitted to be prescribed by regulation under this Act; and

(b) generally, any matter that is necessary or expedient to prescribe for the proper implementation of this Act.

Amendment of Act 95 of 1986

20. The Sectional Titles Act, 1986 (Act No. 95 of 1986), is hereby amended to the extent set out in the third column of the Schedule.

Transitional arrangements

21. Rules prescribed under the Sectional Titles Act must continue to apply to new and existing schemes until the Minister has made regulations prescribing management rules and conduct rules referred to in section 10(2) of this Act.

Short title and commencement

22. (1) This Act is called the Sectional Titles Schemes Management Act, 2011, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Different dates may be fixed in respect of different provisions of this Act.

SCHEDULE

AMENDMENT OF THE SECTIONAL TITLES ACT, 1986

(ACT NO 95 OF 1986)

SECTION 19

No. and Year of Act	Short title	Extent of repeal or amendment
Act No. 95 of 1986	Sectional Titles Act, 1986	1. Substitution for the long title of the following long title: "**To provide for the division of buildings into sections and common property and for the acquisition of separate ownership in sections coupled with joint ownership in common property; the control of certain incidents attaching to separate ownership in sections and joint ownership in common property; the transfer of ownership of sections and the registration of sectional mortgage bonds over, and real rights in, sections; the conferring and registration of rights in, and the disposal of, common property; [the establishment of bodies corporate to control common property and for that purpose to apply rules;] and the establishment of a sectional titles regulation board; and to provide for incidental matters.**".
		2. The amendment of section 1— *(a)* by the substitution for the definition of "body corporate" of the following definition: " **'body corporate'** means the body corporate as defined in the Sectional Titles Schemes Management Act;"; *(b)* by the insertion after the definition of "building" of the following definition: " **'chief ombud'** means the chief ombud as defined in the Community Schemes Ombud Service Act, 2011;";

No. and Year of Act	Short title	Extent of repeal or amendment
		(c) by the substitution for paragraph *(b)* of the definition of "developer" of the following paragraph: "*(b)* for the purposes of rebuilding any building that is deemed to have been destroyed, as contemplated in section **[48]** 17 of the Sectional Titles Schemes Management Act, the body corporate concerned."; *(d)* by the substitution for the definition of "rules of the following definition: " **'rules'** means rules as defined in section 1 of the Sectional Titles Schemes Management Act;"; *(e)* by the insertion after the definition of "sectional title register" the following definition: "Sectional Titles Schemes Management Act" means the Sectional Titles Schemes Management Act, 2010;"; and *(f)* by the repeal of— (i) subsection (2); (ii) subsection (3); and (iii) subsection (3A).
		3. The amendment of section 11 by the substitution in subsection (3) for paragraph *(e)* of the following paragraph: "*(e)* a certificate by **[a conveyancer]** the Chief Ombud stating that the rules **[prescribed in terms of section 35(2)]** contemplated in section 10 of the Sectional Titles Schemes Management Act **[are applicable, and containing the other rules (if any) substituted by the developer for those rules as contemplated in that section]** have been approved;".

No. and Year of Act	Short title	Extent of repeal or amendment
		4. The amendment of section 15B— *(a)* by the substitution in subsection (3)*(a)* for subparagraph (i)*(aa)* of the following subparagraph: "(i) *(aa)* if a body corporate is deemed to be established in terms of section **[36(1)]** 2(1) of the Sectional Titles Schemes Management Act, that body corporate has certified that all moneys due to the body corporate by the transferor in respect of the said unit have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof; or"; and *(b)* by the substitution in subsection (3)*(b)* for subparagraph (ii) of the following subparagraph: "(ii) the transfer will result in the establishment of a body corporate in terms of section **[36]** 2 of the Sectional Titles Schemes Management Act.".
		5. The amendment of section 17— *(a)* by the substitution for subsection (1) of the following subsection: "(1) The owners and holders of a right of extension contemplated in section 25 may **[by unanimous resolution]**, if authorised in terms of section 5(1)*(a)* of the Sectional Titles Schemes Management Act direct the body corporate on their behalf to alienate common property or any part thereof, or to let common property or any part thereof under a lease, and thereupon the body corporate shall notwithstanding any provisions of section 20 of the Deeds Registries Act, but subject to compliance with any law relating to the subdivision of land or to the letting of a part of land, as the

No. and Year of Act	Short title	Extent of repeal or amendment
		case may be, have power to deal with such common property or such part thereof in accordance with the direction, and to execute any deed required for the purpose: Provided that if the whole of the right referred to in section 25 or section 60(1)*(b)* is affected by the alienation of common property, such right shall be cancelled by the registrar with the consent of the holder thereof on submission of the title to the right."; and *(b)* by the substitution for subsection (2) of the following subsection: "(2) Any transaction **[in pursuance of a resolution]** referred to in subsection (1) shall be accompanied by a copy of the **[relevant resolution]** authorisation concerned, certified by two trustees of the body corporate: Provided that where the transaction in question requires to be notarially executed, such **[resolution]** authorisation so certified shall be produced to the notary public concerned and be retained by him or her in his or her protocol.".
		6. The amendment of section 19— *(a)* by the repeal of subsections (1) and (2); and *(b)* by the substitution for subsection (3) of the following subsection: "(3) The provisions of section 17(3)*(a)* and *(b)* of this Act and sections 31(4) and 32(4) of the Deeds Registries Act shall apply *mutatis mutandis* to a transfer pursuant to an expropriation of land or a servitude or other real right in land comprising common property as contemplated in section 12 of the Sectional Titles Schemes Management Act.".

No. and Year of Act	Short title	Extent of repeal or amendment
		7. The amendment of section 21 by the substitution for subsection (1) of the following subsection: "(1) If an owner of a section proposes to subdivide his or her section or to consolidate two or more sections registered in his or her name, he or she shall **[with the consent of the trustees of the body corporate, which consent shall not unreasonably be withheld]** if authorised in terms of section 7(2) of the Sectional Titles Schemes Management Act, cause the land surveyor or architect concerned to submit the draft sectional plan of subdivision or consolidation, as the case may be, to the Surveyor-General for approval.".
		8. Amendment of section 24 by the substitution for subsection (3) of the following subsection: "(3) If an owner of a section proposes to extend the boundaries or floor area of his or her section, he or she shall **[with the approval of the body corporate authorised by a special resolution of its members]** if authorised in terms of section 5(1)*(h)* of the Sectional Titles Schemes Management Act, cause the land surveyor or architect concerned to submit a draft sectional plan of the extension to the Surveyor-General for approval.".
		9. The amendment of section 25— *(a)* by the repeal of subsection (3); *(b)* by the substitution in subsection (5A) for paragraph *(b)* of the following paragraph: "*(b)* If the developer or his or her successor in title fails to take such steps and fails to register the relevant plan of extension within 90 days of completion for occupation of the unit, the developer or his or her successor in title shall be liable to the body corporate for the amounts payable in terms of section

No. and Year of Act	Short title	Extent of repeal or amendment
		[37(1)] 3(1)*(b)* of the Sectional Titles Schemes Management Act as if the unit has been included in the relevant sectional title register on the date of completion."; *(c)* by the substitution for subsection (6) of the following subsection: "(6) If no reservation was made by a developer in terms of subsection (1), or if such a reservation was made and for any reason has lapsed, the right to extend a scheme including the land contemplated in section 26, shall vest in the body corporate, which shall be entitled, subject to this section, section 5(1)*(b)* of the Sectional Titles Schemes Management Act and after compliance, with the necessary changes, with the requirements of paragraphs *(a)*, *(b)*, *(c)*, *(d)* and *(g)* of subsection (2), to obtain a certificate of real right in the prescribed form in respect thereof **[: Provided that the body corporate shall only exercise or alienate or transfer such right with the written consent of all the members of the body corporate as well as with the written consent of the mortgagee of each unit in the scheme: Provided further that a member or mortgagee shall not withhold such approval without good cause in law]**."; *(d)* by the substitution for subsection (6A) of the following subsection: "(6A) If no reservation has been made by a developer in terms of subsection (1) and the body corporate has not yet been established in

No. and Year of Act	Short title	Extent of repeal or amendment
		terms of section 2(1) of the Sectional Titles Schemes Management Act, the registrar may issue a certificate of real right of extension as contemplated in section 12(1)*(e)* on application by the developer accompanied by the sectional mortgage bond and the written consent of any bondholder and such of the documents contemplated in subsection (2) as are applicable.".
		10. The amendment of section 26— *(a)* by the repeal of subsection (1); and *(b)* by the substitution for subsection (2) of the following subsection: "(2) Land purchased or otherwise acquired by **[and registered in the name of a]** the body corporate in terms of **[subsection (1)]** section 5(1)*(d)* of the Sectional Titles Schemes Management Act shall be deemed to be owned by the owners of the sections in the building concerned in the same proportion as their participation quota as reflected on the relevant sectional plan.".
		11. The amendment of section 27— *(a)* by the substitution in subsection (1) for paragraph *(c)* of the following paragraph: "*(c)* If a developer ceases to be a member of the body corporate as contemplated in section **[36(2)]** 2(2) of the Sectional Titles Schemes Management Act, any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond.";

No. and Year of Act	Short title	Extent of repeal or amendment
		(b) by the substitution for subsection (1A) of the following subsection: "**(1A) [Notwithstanding section 27(1)*(a)*, if]** If no reservation was made by a developer in terms of subsection (1) and the body corporate has not yet been established in terms of section 2(1) of the Sectional Titles Schemes Management Act, the registrar may issue a certificate of real right in respect of a right of exclusive use as contemplated in section 12(1)*(f)* on application by the developer accompanied by the sectional mortgage bond and the written consent of any bondholder."; *(c)* by the substitution for subsection (2) of the following subsection: "(2) A body corporate **[duly authorized thereto by a unanimous resolution of its members,]** may, subject to the provisions of section 5(1) of this Act and section 5(1)*(d)* of the Sectional Titles Schemes Management Act), request an architect or land surveyor to apply to the Surveyor-General for the delineation on a sectional plan in the manner prescribed of a part or parts of the common property in terms of section 5(3)*(f)* for the exclusive use by the owner or owners of one or more sections: Provided that no such delineation shall be made on the sectional plan in terms of this subsection if such delineation will encroach upon a prior delineation on the sectional plan of a part of the common property for the exclusive use by one or more of the owners.";

No. and Year of Act	Short title	Extent of repeal or amendment
		(d) by the substitution for subsection (3) of the following subsection: "(3) **[The body corporate, duly authorised thereto by a unanimous resolution of its members, shall transfer the]** A right to the exclusive use of a part or parts of the common property delineated on the sectional plan in terms of subsection (2) shall be transferred to the owner or owners on whom such right has been conferred by the body corporate by the registration of a notarial deed entered into by the parties and in which the body corporate shall represent the owners of all the sections as transferor."; and *(e)* by the substitution in subsection (4) for paragraph *(b)* of the following paragraph: "*(b)* If an owner ceases to be a member of the body corporate **[as contemplated in section 36(2),]** in terms of section 2(3) of the Sectional Titles Schemes Management Act, any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond.".
		12. Repeal of section 27A.
		13. The amendment of section 29 by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words: "The owners may **[by special resolution]**, if duly authorised in terms of section 5(1)*(g)* the Sectional Titles Schemes Management Act, direct the body corporate—".

No. and Year of Act	Short title	Extent of repeal or amendment
		14. The substitution for section 31 of the following section: "**Deeds Registries Act and implied servitudes** **31.** The provisions of the Deeds Registries Act shall not apply with reference to servitudes or restrictions as to user implied under this Act, and such servitudes and restrictions shall take effect and be enforceable immediately upon the establishment of the body corporate in terms of the Sectional Titles Schemes Management Act.".
		15. The amendment of section 32— *(a)* by the substitution for subsection (3) of the following subsection: "(3) The quota of a section shall determine the undivided share in the common property of owner of the section."; and *(b)* by the repeal of subsection (4).
		16. The amendment of section 34 by the substitution in subsection (4) for paragraph *(b)* of the following paragraph: "*(b)* there is produced to the registrar a certificate by a conveyancer confirming that, if a body corporate is deemed to have been established in terms of section **[36(1)]** 2(1) of the Sectional Titles Schemes Management Act, that body corporate has certified that all moneys due to the body corporate by the transferor in respect of the units concerned have been paid or provision for the payment thereof has been made to the satisfaction of the body corporate.".
		17. Repeal of section 35.

No. and Year of Act	Short title	Extent of repeal or amendment
		18. Amendment of section 36— *(a)* by the substitution for subsections (1), (2) and (3) of the following subsections: "(1) When a unit is registered in the name of any person other than the developer, the registrar must issue a certificate in the prescribed form. (2) The effect of the registration referred to in subsection (1) is the establishment of a body corporate for the scheme, in terms of the Sectional Titles Schemes Management Act. (3) The registrar must lodge a copy of the certificate referred to in subsection (1) with the chief ombud."; and *(b)* by the repeal of subsections (4) to (7).
		19. Repeal of sections 37 to 48.
		20. The amendment of section 49 by the substitution (1) of the following subsection: "(1) When in terms of section **[48]** 17(3) of the Sectional Titles Schemes Management Act the building or buildings comprised in a scheme is or are deemed to be destroyed and the owners have **[by unanimous resolution]** resolved not to rebuild the building or buildings, the body corporate **[shall]** must, subject to section 17(9) of the Sectional Titles Schemes Management Act, lodge with the registrar a notification in the prescribed form of such destruction and a copy of the relevant resolution of the owners as certified by two trustees of the body corporate.'';
		21. Repeal of section 51.
		22. The amendment of section 55 by the repeal of paragraph *(k)*.

No. and Year of Act	Short title	Extent of repeal or amendment
		23. The amendment of section 60 by the repeal of subsections (4) to (8).
		24. The amendment of section 60A by the repeal of subsections (4) to (8).