



rural development & land reform

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Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

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CHIEF REGISTRAR'S CIRCULAR NO. 7 OF 2017

SECTIONAL TITLES ACT, 1986 (ACT NO. 95 OF 1986) AMENDMENT OF REGULATIONS

1. COMMENCEMENT OF AMENDED REGULATIONS

The amended regulations, published under Government Notice No. R. 427 in Government Gazette No. 40842 dated 12 May 2017, shall be effective from 12 June 2017.

2. NATURE AND/OR IMPACT OF THE AMENDMENTS

Only the amendments to the regulations of the Sectional Titles Act 95 of 1986 ("the Act") that have an impact on registration issues are herein discussed.

2.1. Amendment of regulation 1:

Regulation 1 has been amended to provide for the insertion of the definition of '*Sectional Titles Schemes Management Act, 2011 (Act 8 of 2011)*'. This insertion is consequential to the amendment of the Act by Act 8 of 2011.

2.2. Amendment of regulation 4:

Regulation 4 (i) (v) has been amended to substitute the words "*section 37 (1) (a) of the Act*" for the words "*section 3 (1) (a) of the Sectional Titles Schemes Management Act, 2011*". This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.3. Amendment of regulation 6:

It often happens that a developer erects and divides buildings into sections and common property in a manner which is not strictly in accordance with the layout as shown in the plan to scale. This state of affairs may have a negative effect on the rights and interests of the owners in the sectional titles scheme. The

amendment of regulation 6, to provide for the lodgement of a certificate from a land surveyor or architect stating that the sectional plan of extension of the scheme in terms of section 25 (1) complies with the section 25 (2) plans filed in the deeds registry, was a necessary step.

2.4. Amendment of regulation 13:

Regulation 13 (4A) has been amended by deleting the word "*rules*". This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.5. Amendment of regulation 14:

Regulation 14 (2) has been amended to provide for reference to be made to "*section 5 (1) (b) of the Sectional Titles Schemes Management Act, 2011*". This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.6. Amendment of regulation 16:

2.6.1 Regulation 16 (1) (a) has been amended by deletion of the words "*in terms of section 36 (1) of the Act*".

2.6.2 Regulation 16 (1) (b) (i) has been amended to substitute the word "*duplicate*" for the word "*triplicate*".

2.6.3 Regulation 16 (1) (b) (ii) has been amended to provide for the delivery of the original certificate to the Chief Ombud, the filing of one copy thereof in the sectional title file, and the delivery of the remaining copy to the conveyancer.

2.6.4 Regulation 16 (1) (c) has been amended to provide for the registrar to issue a certified copy of the deeds registry copy of the certificate.

2.6.5 Regulation 16 (d) (i) has been amended to provide for the Chief Ombud to notify the registrar in writing in instances where the original certificate referred to in subregulation (1) (b) (ii) has been lost or destroyed, and to also substitute the word "*duplicate*" for the word "*triplicate*".

2.6.6 Regulation 16 (d) (ii) has been amended to provide for the original certificate of replacement to replace the original certificate that has been lost or destroyed. It also provides for the original certificate of replacement and one of the copies thereof to be delivered to the conveyancer and the other copy to be filed in the sectional title file.

2.6.7 Regulation 16 has been amended by the deletion of subregulation (3).

- *The above amendments are consequential to the amendment of the Act by Act 8 of 2011.*

2.7. Amendment of regulation 30:

Regulation 30 has been repealed. This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.8. Amendment of regulation 31:

2.8.1 Regulation 31 (1) has been amended to substitute reference to "*section 48*" for reference to "*section 17 of the Sectional Titles Schemes Management Act, 2011*", as well as the substitution of reference to "*section 48 (3) (a) of the Act*" for reference to "*section 17 (3) (a) of the said Act*", and reference to be made to "*section 17 (9) of the Sectional Titles Schemes Management Act, 2011*".

2.8.2 Regulation 31 (3) has been amended to substitute reference to "*section 48 (3) (a) (ii) of the Act*" for reference to "*section 17 (3) (a) (ii) of the Sectional Titles Schemes Management Act, 2011*".

2.8.3 Regulation 31 (4) has been amended to substitute reference to "*section 48 of the Act*" for reference to "*section 17 of the Sectional Titles Schemes Management Act, 2011*", and also to substitute the word "*schedule*" for the word "*sectional plan*".

- *The above amendments are consequential to the amendment of the Act by Act 8 of 2011.*

2.9. Amendment of regulation 39:

Regulation 39 has been repealed. This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.10. Amendment of regulation 43:

2.10.1 Regulation 43 (1) (b) has been amended to provide for reference to be made to "*the provisions of the Sectional Titles Schemes Management Act, 2011*". This amendment is consequential to the amendment of the Act by Act 8 of 2011.

2.10.2 Regulation 43 (2) (b) has been amended to substitute the words "*South African Council for Professional Land Surveyors and Technical Surveyors*" for the words "*South African Geomatics Council*". This amendment is consequential to the amendment of the Land Survey Act 8 of 1997 by the Geomatics Profession Act 19 of 2013.

2.10.3 Regulation 43 (7) (b) has also been amended to substitute the words "*South African Council for Professional Land Surveyors and Technical Surveyors*" for the words "*South African Geomatics Council*". This amendment is consequential to the amendment of the Land Survey Act 8 of 1997 by the Geomatics Profession Act 19 of 2013.

2.11. Amendment of Annexure 1:

- 2.11.1 Various prescribed forms in Annexure 1 of the Regulations provide for reference to be made to the name of the township, suburb and local authority in which the scheme is situated. However, the word "*suburb*" is not defined in the Act, nor does the Act refer to it in any other manner. A deeds registry can also not check its records to ensure that reference to a particular suburb is indeed correct. The amendment of Form D and the footnotes to Forms C, F, G, H, J, O, P, Q, R, Z, AG, AH and AO, to provide for reference to be made to "*the description of the land as indicated on the sectional plan*", was therefore necessary. Form O has been amended to also provide for reference to be made to the plan number allocated at the first phase or opening of the scheme.
- 2.11.2 Form V has been deleted. This amendment is consequential to the amendment of the Act by Act 8 of 2011.
- 2.11.3 The heading to Form W has been amended to substitute the words "*Section 36 (1) of the Sectional Titles Act, 1986*" for the words "*Section 2 (1) of the Sectional Titles Schemes Management Act 8 of 2011*".
- 2.11.4 The heading to Form X has been amended to substitute the words "*Regulation 31 (1) under the Sectional Titles Act, 1986*" for the words "*Section 17 (9) of the Sectional Titles Schemes Management Act 8 of 2011*". Form X has been amended to also substitute the words "*section 48 of the Act*" for the words "*section 17 of Act 8 of 2011*".
- 2.11.5 Form Y has been amended to substitute the words "*section 48 of the Act*" for the words "*section 17 of the Sectional Titles Schemes Management Act 8 of 2011*", and to provide for reference to be made to "*section 17 (1) (b) and section 17 (3) (a) of the Sectional Titles Schemes Management Act, 2011*".

2.12. Repeal of Annexures 8 and 9:

The repeal of Annexures 8 and 9 is consequential to the amendment of the Act by Act 8 of 2011.

3. IMPLEMENTATION OF AMENDED REGULATIONS

The amended regulations must be applied to deeds and documentation lodged after the date of commencement thereof (see par. 1).

- *Certain amendments to the Act, as affected by Act 8 of 2011, have already been implemented from 7 October 2016, which is the date of the coming into operation of Act 8 of 2011 (See CRC 13/2016).*


CHIEF REGISTRAR OF DEEDS

DATE: 15/5/2017

REFERENCE: A. 14/P AND 10/2/3
RINGBINDER 55

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