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 uneven numbered pages as the other language is printed on even numbered pages.

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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CAPE TOWN, 29 JUNE 1988 No. 11373

KANTOOR VAN DIE STAATSPRESIDENT

No. 1262. 29 Junie 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 65 van 1988: Wet op Behuisingsontwikkelingskemas vir Afgetrede Persone, 1988.

STATE PRESIDENT'S OFFICE

No. 1262. 29 June 1988

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

No. 65 of 1988: Housing Development Schemes for Retired Persons Act, 1988.

ACT

To regulate the alienation of certain interests in housing development schemes for retired persons; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 17 June 1988.)

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

Definitions

1. In this Act, unless the context indicates otherwise—

(i) "alienate", in relation to a housing interest, means—
(a) sell, exchange, lease, donate, grant or otherwise dispose of or place at disposal; or
(b) the making of an irrevocable offer to acquire the interest for consideration; (xxv)

(ii) "architect" means an architect as defined in section 1 of the Architects Act, 1970 (Act No. 35 of 1970); (iii)

(iii) "consideration", in relation to the alienation of a housing interest, means the purchase price and interest thereon (but excluding occupational interest), rent or other consideration which is payable or must be rendered in terms of the contract concerned; (xxii)

(iv) "contract" means a document in terms of which a housing interest is alienated to a retired person, and includes any agreement or agreements which together have the same import, whatever form the agreement or agreements may take; (xiv)

(v) "debilitated person" means a debilitated person as defined in section 1 of the Aged Persons Act, 1967 (Act No. 81 of 1967); (xxiv)

(vi) "developer"—
(a) means a share block developer as defined in section 1 of the Share Blocks Control Act;
(b) means a developer as defined in section 1 (1) of the Sectional Titles Act;
(c) in relation to a housing interest, includes any person, or his agent or successor-in-title, who alienates the interest for the first time; (xvii)

(vii) "development scheme" means a development scheme as defined in section 1 (1) of the Sectional Titles Act; (xviii)

(viii) "estate agent" means an estate agent as defined in section 1 of the Estate Agents Act, 1976 (Act No. 112 of 1976); (viii)

(ix) "housing development scheme" means any scheme, arrangement or undertaking—
(a) in terms of which housing interests are alienated, or are offered for alienation, only to retired persons or mainly to such persons, whether the scheme, arrangement or undertaking is operated pursuant to or in connection with a development scheme or a share block scheme or membership of or participation in any club, association, organization or other body, or the issuing of shares, or otherwise, but excluding a property time-sharing scheme; or

(b) declared a housing development scheme by the Minister by notice in the *Gazette* for the purposes of this Act; (v)

(x) "housing interest", in relation to a housing development scheme, means any right to claim transfer of the land to which the scheme relates, or to use or occupy that land; (iv)

(xi) "insolvent" means—

(a) any person whose estate is under sequestration in terms of the Insolvency Act, 1936 (Act No. 24 of 1936);

(b) any insolvent deceased estate which is being dealt with in terms of section 34 (2) of the Administration of Estates Act, 1965 (Act No. 66 of 1965);

(c) any juristic person in liquidation which is unable to pay its debts;

(d) any person whose estate is being dealt with in terms of section 28 (5) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966); (xiii)

(xii) "land", in relation to a housing development scheme, means land which is used or intended to be used mainly for residential purposes, including any unit and any undivided share in land; (x)

(xiii) "levy" means the amount payable as a contribution to the costs of the control, management and administration of a housing development scheme; (xi)

(xiv) "Minister" means the Minister of Economic Affairs and Technology; (xvi)

(xv) "practitioner" means a practitioner as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979); (xix)

(xvi) "property time-sharing scheme" means a property time-sharing scheme as defined in section 1 of the Property Time-sharing Control Act, 1983 (Act No. 75 of 1983); (ix)

(xvii) "purchaser" means any person to whom a housing interest is alienated in terms of a contract; (xv)

(xviii) "quantity surveyor" means a quantity surveyor as defined in section 1 of the Quantity Surveyors Act, 1970 (Act No. 36 of 1970); (vi)

(xix) "registrable", in relation to land, means capable of being registered as the subject of a separate title deed in a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), in that the requirements of any law relating to such registration have been complied with; (xx)

(xx) "regulation" means a regulation made under section 11; (xxi)

(xxi) "retired person" means a person who is 50 years of age or older; (ii)

(xxii) "Sectional Titles Act" means the Sectional Titles Act, 1986 (Act No. 95 of 1986); (xxvi)

(xxiii) "seller" means any person who alienates a housing interest in terms of a contract; (xxiii)

(xxiv) "share block scheme" means a share block scheme as defined in section 1 of the Share Blocks Control Act; (i)

(xxv) "Share Blocks Control Act" means the Share Blocks Control Act, 1980 (Act No. 59 of 1980); (xxvii)

(xxvi) "this Act" includes the regulations; (xii)

(xxvii) "unit" means a unit as defined in section 1 (1) of the Sectional Titles Act. (vii)

Formalities in respect of contracts

2. (1) No alienation of a housing interest to a retired person shall, subject to section 8 (2), be of any force or effect, unless it is contained in a contract signed by the parties thereto or by their agents acting on their written authority.

(2) The provisions of subsection (1) relating to the signature by the agent of a party acting on the written authority of the party, shall not derogate from any law relating to the conclusion of a contract in writing by a person professing to act as agent or trustee for a company or close corporation not yet formed.

Language in which contract shall be drawn up

3. The purchaser in relation to a contract is entitled to choose the official language in which the contract shall be drawn up.

Contents of contract

4. (1) Without derogating from the requirements of any other law, a contract, if the seller concerned is a developer, shall contain the following:

(a) The names of the purchaser and the seller and their residential or business addresses in the Republic;

(b) a concise description of the legal basis upon which the housing interest concerned is to be alienated;

(c) the duration of the housing interest and any other limitations thereon;

(d) a statement as to whether the housing interest is registrable;

(e) a description of the land concerned, including the erf and unit number (if any), the extent thereof and the magisterial district in which it is situated;

(f) a statement as to whether the land is held by the seller by virtue of ownership or otherwise;

(g) if the seller is not the owner of the land—

(i) the name and address of the owner;

(ii) the nature of the seller's right to the land;

(iii) the period for which the right is being held;

(iv) the obligations (if any) of the seller, arising from the right; and

(v) a statement of the place where and the hours during which a document which confirms the existence of the right, or a certified copy thereof, may be inspected;

(h) if the land is encumbered by a mortgage bond—

(i) the name and address of the person in favour of whom, or, in the case of a participation bond, the name and address of the relevant nominee company contemplated in the Participation Bonds Act, 1981 (Act No. 55 of 1981), in favour of which, the mortgage bond is registered at the time the contract is concluded; and

(ii) the outstanding balance owing by the mortgagor in terms of the mortgage bond;

(i) the amount or nature of the consideration concerned;

(j) the annual rate at which interest (if any) is to be paid on any balance in respect of the consideration;

(k) the amount, or the method of determining the amount, of each instalment payable in terms of the contract in reduction or settlement of the consideration concerned (if any);

(l) the due date, or the method of determining the due date, of each such instalment;

(m) if a certificate contemplated in section 6 (1) has not been issued at the time the contract is concluded, the latest date by which such certificate, subject to subsection (2), will be issued and furnished to the purchaser;

(n) a statement of the place where and the hours during which rules (if any), in accordance with which the housing interest concerned is to be utilized, may be inspected;

(o) a statement—

(i) of the location, nature and extent of any facilities or services which are to be provided or rendered in connection with the housing interest concerned;

(ii) of the rights and obligations of the purchaser in connection with the utilization of those facilities or services;

(iii) without derogating from the above, as to whether any such facility or service provides for the care of debilitated persons; and

(iv) of the date by which the facilities or services contemplated in subparagraphs (i) and (iii) will be provided or rendered;

(p) a statement of the official language chosen by the purchaser under section 3;

(q) the date on which the purchaser will become entitled to utilize the housing interest;

(r) if applicable, the date upon which the risk of the housing interest will pass to the purchaser;

(s) a statement of the obligation (if any) of either the seller or the purchaser to insure the subject matter of the contract;

(t) a statement—

(i) of any amount which in terms of any law is payable in respect of the land as endowment, betterment or enhancement levy, a development contribution or any similar imposition, and an indication of the person to whom and the person by whom it is payable; or

(ii) that no amount contemplated in subparagraph (i) is payable in respect of the land, if such is the case;

(u) an indication of the party who is liable for the payment of the costs of the drafting of the contract and (if applicable) the transfer of the land;

(v) if the seller is the owner of the land, an undertaking by him that the land will not be encumbered or further encumbered by a mortgage bond, as the case may be;

(w) if applicable, the period within which the purchaser is obliged or may be compelled to take transfer of the land against simultaneous payment of all amounts owed by him in terms of the contract;

(x) an estimate, for a period of three years in advance, of all expenditure for the control, management and administration of the housing development scheme and all services and facilities concerned, and an indication of the person or persons who will be liable for the payment thereof, and a statement that over and above any levy contemplated in paragraph *(y)*, the purchaser will not be liable for the payment of any such expenditure;

(y) a statement of the basis upon which any levy payable by the purchaser is to be calculated, and an estimate, for a period of two years in advance, of the amount of the levy;

(z) a reference to the rights and remedies of the purchaser in terms of subsection (3) and sections 8 and 9;

(aa) a statement as to the percentage of the total number of housing interests in the housing development scheme concerned which is reserved for alienation to retired persons only;

(bb) a concise outline of the management structure or proposed management structure of the housing development scheme concerned;

(cc) such further particulars as may be prescribed by regulation.

(2) The date stated in a contract in terms of subsection (1) *(m)*, shall not be later than two years from the date of conclusion of the contract.

(3) If, for any reason whatsoever, the seller is unable, by the date referred to in subsection (1) *(m)*, to furnish the certificate referred to in that subsection, the purchaser may cancel the contract, in which event the parties shall be entitled to the relief provided for in section 8, or the purchaser may abide by the contract, in which event no interest shall be payable by him in terms of the contract as from the date in question until such time as the certificate is furnished to him.

(4) The date stated in a contract in terms of subsection (1) *(r)*, shall not be earlier than the date stated in terms of subsection (1) *(q)*.

(5) A provision in a contract whereby—

(a) any person who acted on behalf of the seller in connection with the conclusion of the contract or the negotiations which preceded the conclusion of the contract, is appointed or is deemed to have been appointed as the agent of the purchaser;

(b) the seller is exempted from liability for any act, omission or representation by any person acting on his behalf;

(c) the liability of the seller to indemnify the purchaser against eviction is restricted or excluded;

(d) the purchaser binds himself in advance to agree to an assignment by the seller of his obligations in terms of a contract,

shall be null and void.

(6) A rouwkoop stipulation in a contract in terms of which the purchaser is deemed to have terminated the contract on account of any act or omission on his part and he, in consequence thereof, is liable for any forfeiture or for the payment of a penalty or damages or for the delivery or performance of anything, or any other stipulation of like import, shall be subject to the Conventional Penalties Act, 1962 (Act No. 15 of 1962), as if that stipulation were a penalty stipulation contemplated in that Act.

Facilities for care of debilitated persons deemed to be homes for the aged

5. If any facility contemplated in section 4 (1) *(o)* is to be maintained mainly for the care of debilitated persons, the facility shall be deemed to be a home for the aged as defined in section 1 of the Aged Persons Act, 1967 (Act No. 81 of 1967), and sections 3 and 4 of that Act shall apply *mutatis mutandis* in respect of that facility.

Restriction on receipt of consideration

6. (1) Subject to subsection (3) and notwithstanding any other law, no developer may by virtue of a contract receive any consideration or any part thereof, unless—

(a) an architect or a quantity surveyor has issued a certificate that the housing development scheme concerned has been erected substantially in accordance with any applicable officially approved building plans and town-planning scheme and applicable local authority by-laws, and is sufficiently completed for the purposes of utilization of the housing interest concerned; and

(b) a copy of that certificate and a copy of the contract have been furnished to the purchaser concerned.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both that fine and that imprisonment.

(3) Subsection (1) shall not apply to the receipt of any amount—

(a) which the purchaser by virtue of a contract entrusts to a practitioner or an estate agent in his capacity as such, to be kept, for the benefit of the developer, in the trust account of the practitioner or estate agent until the certificate referred to in subsection (1) has been issued and a copy thereof has been furnished to the purchaser; or

(b) which by virtue of a contract is paid to the developer if, before such payment, the purchaser was furnished with an irrevocable and unconditional guarantee by a banking institution registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965), a mutual building society registered otherwise than provisionally under the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), a building society registered otherwise than provisionally under the Building Societies Act, 1986 (Act No. 82 of 1986), or a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act No. 27 of 1943), in terms of which the banking institution, mutual building society, building society or insurer undertakes to repay the said amount to the purchaser, if the certificate referred to in subsection (1) is not issued and furnished to the purchaser within the period contemplated in section 4 (1) *(m)*.

(4) If, in the circumstances contemplated in subsection (3), the developer becomes an insolvent before the certificate referred to in subsection (1) is issued, any amount kept in a trust account in terms of paragraph *(a)* of subsection (3) or the repayment of which was guaranteed in terms of paragraph *(b)* of that subsection, shall immediately become payable to the purchaser concerned by the practitioner, estate agent, banking institution, mutual building society, building society or insurer concerned.

Restriction on alienation of housing interests

7. (1) After a housing interest has been transferred to or has otherwise been vested in a retired person by virtue of a contract, no person shall alienate that interest to any

person other than a retired person, except with the written consent of all the holders of housing interests in the housing development scheme concerned.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding six months or to both that fine and that imprisonment.

Consequences of contracts which are void or are cancelled

8. (1) Notwithstanding any other law, but subject to any power that a court may have and subject to subsection (2), any person who has performed partially or in full in terms of a contract which is of no force or effect in terms of section 2 (1) or which has been declared void or has been cancelled under this Act, is entitled to recover from the other party what he has performed in terms of the contract, and, if the seller concerned is a developer—

(a) the purchaser may in addition recover from the developer—

(i) interest at the rate prescribed by regulation on any payment that he made in terms of the contract, from the date of the payment to the date of recovery;

(ii) a reasonable compensation for—

(aa) necessary expenditure he had incurred, with or without the authority of the owner of the land concerned or of the developer, in relation to the preservation of the land; or

(bb) any improvement which enhances the market value of the land and was effected by him with the express or implied consent of the said owner or developer; and

(b) the developer may in addition recover from the purchaser—

(i) a reasonable compensation for the occupation or utilization the purchaser may have had of the land;

(ii) compensation for any damage caused intentionally or negligently to the land by the purchaser or any person for whose actions the purchaser may be liable.

(2) Any alienation which does not comply with section 2 (1), shall in all respects be valid *ab initio* if the purchaser has in terms of the alienation rendered the full compensation and the land concerned has been transferred to the purchaser or the housing interest concerned has otherwise been vested in him.

Relief that court may grant in respect of contracts

9. (1) Notwithstanding any other law, but subject to any other power that a court may have, if a contract does not substantially comply with sections 3 and 4 (1), or if a seller has failed to meet any obligation under a contract or has contravened or has failed to comply with any provision of a regulation, and a purchaser proves that he has in consequence thereof suffered any prejudice, a court in whose area of jurisdiction the land to which the contract relates is situated, provided appropriate proceedings are instituted by the purchaser within a period of three years from the date upon which the contract was concluded, is competent—

(a) to reduce the rate of interest payable to the seller in terms of the contract to such rate as it may deem just and equitable in the circumstances;

(b) to grant an order for rectification of the contract;

(c) to declare the contract to be void *ab initio*; or

(d) to grant such alternative relief as it may deem fit.

(2) A magistrate's court shall, notwithstanding the value of the housing interest concerned, have jurisdiction to grant any relief contemplated in subsection (1).

Mortgage Bond registered over land after conclusion of contract

10. When any land has been sold in terms of a contract, a mortgagee in whose favour a mortgage bond over that land is registered at any time after the conclusion of the contract concerned, shall be deemed to have consented irrevocably and

unconditionally in favour of the purchaser in terms of the said contract or any person to whom that land is subsequently alienated, to the discharge of his mortgage bond or the release of the land from his mortgage bond.

Regulations

11. (1) The Minister may make regulations—

(a) prescribing the information to be contained in any advertisement in connection with the alienation of a housing interest;

(b) prescribing the information which should be disclosed in writing by a developer to a purchaser before the signature of a contract by the purchaser;

(c) regarding the alienation of housing interests and the control over and the operation of housing development schemes, including the payment of levies and the establishment of levy funds;

(d) regarding the exemption of any person or category of persons from any provision of this Act;

(e) regarding the establishment and utilization of facilities or services contemplated in section 4 (1) *(o)*;

(f) prescribing the rate of interest for the purposes of section 8 (1) *(a)* (i);

(g) prescribing that the whole or any part of the Alienation of Land Act, 1981 (Act No. 68 of 1981), shall or shall not apply to the alienation of housing interests or to specified categories of housing interests;

(h) regarding any matter which is required or permitted to be prescribed by regulation, or is considered necessary or expedient to be so prescribed in order to achieve the objects of this Act.

(2) A regulation may prescribe penalties for a contravention thereof or failure to comply therewith, not exceeding a fine of R6 000 or imprisonment for a period of three years.

(3) A regulation under paragraph *(c)* or *(e)* of subsection (1) may provide for the application thereof also in respect of housing development schemes erected at any time before the commencement of this Act.

Short title and commencement

12. This Act shall be called the Housing Development Schemes for Retired Persons Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS

REGULATIONS

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11

GNR.1351 of 30 June 1989: Regulations in terms of section 11

These regulations were published in Government Notice R1351 in *Government Gazette* 11979 of 30 June 1989 and amended by GN R2091 in *Government Gazette* 12717 of 31 August 1990 and by GN R2092 at 31 August 1990.

The Minister of Economic Affairs and Technology has, in terms of section 11 of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulations contained in the Schedule.

SCHEDULE

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates—

1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates—

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / “accommodation” means a section as defined in the Sectional Titles Act, set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest, or otherwise, any building or part of a building or such land set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest;

“accommodation” means a section as defined in the Sectional Titles Act, set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest, or otherwise, any building or part of a building or such land set aside for the exclusive occupation of or use by a purchaser in terms of a

housing interest;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "common property" means in relation to a housing development scheme operated pursuant to or in connection with—

"common property" means in relation to a housing development scheme operated pursuant to or in connection with—

(*a*) a development scheme, common property as defined in the Sectional Titles Act;

(*b*) otherwise, the land to which the housing development scheme relates, together with all buildings, permanent structures and works erected on or installed upon such land, but excluding any building or part of a building or such land set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "facilities and services" means the facilities and services referred to in section 4 (1) (o) of the Act including any facility or service or improvement to an existing facility or service provided by virtue of a decision of the management association, or a body corporate as defined in the Sectional Titles Act, or share block company as defined in the Share Blocks Control Act, or a developer, or otherwise, as the case may be;

"facilities and services" means the facilities and services referred to in section 4 (1) (*o*) of the Act including any facility or service or improvement to an existing facility or service provided by virtue of a decision of the management association, or a body corporate as defined in the Sectional Titles Act, or share block company as defined in the Share Blocks Control Act, or a developer, or otherwise, as the case may be;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "managing agent" means the person appointed by a developer, or in the case of a development scheme by a body corporate as defined in the Sectional Titles Act, or in the case of a share block scheme by a share block company as defined in the Share Blocks Control Act, or a management association, as the case may be, to manage a housing development scheme in terms of a management agreement;

"managing agent" means the person appointed by a developer, or in the case of a development scheme by a body corporate as defined in the Sectional Titles Act, or in the case of a share block scheme by a share block company as defined in the Share Blocks Control Act, or a management association, as the case may be, to manage a housing development scheme in terms of a management agreement;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "management agreement" means a signed agreement by which a managing agent is appointed and which prescribes the manner in which a managing agent shall manage the housing development scheme;

"management agreement" means a signed agreement by which a managing agent is appointed and which prescribes the manner in which a managing agent shall manage the housing development scheme;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "management association" means an association as provided for in regulation 8;

"management association" means an association as provided for in regulation 8;

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "special resolution" means a resolution passed by a majority of not less than three fourths of the votes of all purchasers, at a general meeting of which at least 14 days notice specifying the proposed special resolution has been given; and

"special resolution" means a resolution passed by a majority of not less than three fourths of the votes of all purchasers, at a general meeting of which at least 14 days notice specifying the proposed special resolution has been given; and

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 1. In these regulations any word to which a meaning has been assigned in the Act shall have that meaning and unless the context otherwise indicates— / "the Act" means the Housing

Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988).

"the Act" means the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988).

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 2. Regulations 7 to 14 shall not apply to a housing development scheme operated pursuant to or in connection with a development scheme or a share block scheme.

2. Regulations 7 to 14 shall not apply to a housing development scheme operated pursuant to or in connection with a development scheme or a share block scheme.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 3. (a) If a housing interest is to be offered for alienation or alienated for the first time, any advertisement relating to such alienation shall contain—

3. (*a*) If a housing interest is to be offered for alienation or alienated for the first time, any advertisement relating to such alienation shall contain—

(i) information describing the type or types of accommodation concerned, such as a detached dwelling, semi-detached dwelling, town-house, self-contained apartment, lodging room or similar description adequate to disclose its true nature;

(ii) a statement of the legal basis upon which the housing interest concerned is to be alienated;

(iii) a statement whether the housing development scheme concerned has been erected or not, and if not, when it will be erected;

(iv) the physical address of the housing development scheme; and

(v) a statement whether the scheme, arrangement or undertaking is a housing development scheme as contemplated by the Act.

(*b*) Any reference in any advertisement to a life-right or any other concept that limits the occupation to the duration of the life of the purchaser or any other person mentioned in the contract shall be considered to be a right of occupation and shall comply with the provisions as defined in the Act.

[Reg. 3 substituted by GN R2091 of 1990.]

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 4. An advertisement referred to in regulation 3, shall not differ materially form the contents of a contract.

4. An advertisement referred to in regulation 3, shall not differ materially form the contents of a

contract.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 5. A developer of a housing development scheme shall, prior to the signing of a contract by a purchaser, have the following written information or documents, as the case may be, readily available for the benefit of or for inspection by an intended purchaser, at all premises from which housing interest in a particular housing development scheme are being alienated—

5. A developer of a housing development scheme shall, prior to the signing of a contract by a purchaser, have the following written information or documents, as the case may be, readily available for the benefit of or for inspection by an intended purchaser, at all premises from which housing interest in a particular housing development scheme are being alienated—

(*a*) information as contemplated in regulation 3;

(*b*) the site development plan, floor lay-out and in the event of the building relating to the particular housing development scheme not being completed, a copy of the building plans approved by the local authority concerned, if any;

(*c*) a copy of the complete contract to be signed;

(*d*) a copy of the then in force management agreement;

(*e*) the floor area in square metres of the accommodation;

(*f*) a statement specifically as to whether or not the housing interest will convey ownership rights capable of registration in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937), or the Sectional Titles Act, and if not, then a further statement as to what form of security is provided by the developer to ensure utilisation of the housing interest by the purchaser, and a description of the right in and to the housing interest, and to whom such rights devolve upon the death of a purchaser who is a natural person, or the dissolution of a purchaser, who is a juristic person, as the case may be;

(*g*) a statement as to whether the land relating to the housing development scheme is held under ownership or leasehold and if leasehold, the number of years during which the housing interest concerned could be utilised by the purchaser in relation to his particular housing interest;

(*h*) a description of the land relating to the relevant housing interest;

(*i*) in the event of the land being held by the seller by virtue of a lease, the name and address of the lessor and a copy of such lease, as well as the duration of the lease and in the event of the land being held by virtue of any right other than a lease, a statement of right under which the seller holds the land, and the duration of such right;

(*j*) if the seller is not the owner, the name and address of the registered owner of the land;

(*k*) a statement as to whether the developer has any direct or indirect interest in the managing agent;

(*l*) if the land is encumbered by a mortgage bond, the name and address of the person in

favour of whom, or, in the case of a participation bond, the name and address of the relevant nominee company referred to in the Participation Bonds Act, 1981 (Act No. 55 of 1981), in favour of which the mortgage bond is registered at the time the contract is concluded as well as the amount or amounts of such bond or bonds, and when the capital and interest due in terms of the mortgage bond is payable;

(*m*) the amount and nature of the consideration;

(*n*) the annual rate at which interest, if any, is to be paid on any balance in respect of the relevant consideration;

(*o*) the amount, or the method of determining the amount, of each instalment which would be payable under the contract in reduction or settlement of the relevant consideration;

(*p*) the due date, or the method of determining the due date, of each such instalment;

(*q*) an inventory of the minimum movables, if any, which will be available for use by the purchaser in conjunction with the housing interest concerned;

(*r*) a detailed projection of the estimated income and expenditure in respect of the operation and maintenance of the housing development scheme for one year in advance including a reasonable provision for future maintenance and repairs, certified as adequate by both the developer and the managing agent;

(*s*) a statement as to the age of the accommodation;

(*t*) in the case of a housing development scheme operated pursuant to or in connection with a development scheme, the management and conduct rules in terms of the Sectional Titles Act, or in the case of a housing development scheme operated pursuant to or in connection with a share block scheme, the use agreement as defined in the Share Blocks Control Act or any rules, regulations or otherwise, in accordance with which the housing interest concerned is to be utilised, or otherwise, the rules referred to in regulation 9 (1) (*o*);

(*u*) particulars of any other housing development scheme in which the developer was directly or indirectly involved in any capacity, including as an architect, developer, estate agent, practitioner, quantity surveyor, or otherwise;

(*v*) a statement as to whether or not all residential accommodation on the land relating to the housing development scheme is being utilised for the purposes of the scheme; and

(*w*) in the case where a housing interest is being alienated under a right of occupation as defined in the Act—

(i) a statement of the *proviso* according to which the purchaser may occupy the housing interest and the period of such occupation; and

(ii) a statement concerning the percentage of the purchase price if any, which will be repaid to the purchaser or any other person or to the estate of a purchaser or any such other person when the right of occupation expires.

[Paras. (*u*) and (*v*) substituted by and (*w*) inserted by GN R2091 of 1990.]

1989: Regulations in terms of section 11 / 6. (a) Subject to paragraph (b), a developer shall, prior to the alienation of any housing interest, appoint a managing agent in terms of a management agreement, which agreement shall specify the management fee and the manner in which the managing agent shall manage the housing development scheme.

6. (*a*) Subject to paragraph (*b*), a developer shall, prior to the alienation of any housing interest, appoint a managing agent in terms of a management agreement, which agreement shall specify the management fee and the manner in which the managing agent shall manage the housing development scheme.

(*b*) A managing agent shall be appointed for a year at a time, and unless the developer or body corporate in the case of a development scheme, or a share block company in the case of a share block scheme, or management association, as the case may be, notifies the managing agent to the contrary, such appointment will be automatically renewed for a year at a time from year to year.

Note: Regulations 7 to 14 must be read in conjunction with GN R1349 of 14 June 1991.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 7. (a) With effect from the date on which a developer first alienates a housing interest to a purchaser, there shall be deemed to be established for that housing development scheme, a management association, of which the developer and such purchaser are members, and every person to whom thereafter a housing interest is alienated shall be a member of that management association.

7. (*a*) With effect from the date on which a developer first alienates a housing interest to a purchaser, there shall be deemed to be established for that housing development scheme, a management association, of which the developer and such purchaser are members, and every person to whom thereafter a housing interest is alienated shall be a member of that management association.

(*b*) The management association shall be responsible for the enforcement of the rules, referred to in regulation 9 (1) (*o*), and the control and administration and management of the housing development scheme, the accommodation, the land, the common property, facilities and services for the benefit of all members.

(*c*) The provisions of the Companies Act, 1973 (Act No. 61 of 1973), shall not apply in relation to the management association.

(*d*) The management association shall have perpetual succession and shall be capable of suing and being sued in its corporate name in respect of—

(i) any contract made by it;

(ii) any damage done to the land, the common property or facilities;

(iii) any matter in connection with the housing development scheme, the land, the common property, facilities or services for which the management association is responsible; and

(iv) any matter arising out of the exercise of its powers or the performance or

non-performance of its functions under this Act or any rules referred to in regulation 9 (1) (*o*).

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 8. (1) Subject to any restriction imposed or direction given at a general meeting of members, it shall be the duty of the management association—

8. (1) Subject to any restriction imposed or direction given at a general meeting of members, it shall be the duty of the management association—

(*a*) to insure the building or buildings relating to the housing development scheme and keep it insured to its replacement value against fire;

(*b*) to insure against such other risks as the members may by special resolution determine;

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

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

(*e*) To ensure compliance with any laws relating to the common property or to any improvement on land comprised in the common property;

(*f*) control, manage and administer the common property for the benefit of all members;

(*g*) keep in a state of good and serviceable repair and properly maintain the plant, machinery, fixtures and fittings, including elevators, used in connection with the common property;

(*h*) subject to the rights of the local authority, 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 accommodation or of the common property;

(*i*) on the written request of any member or registered mortgagee, in respect of a housing interest to produce to such member or mortgagee, or any person authorized in writing by such member or mortgagee, the policy or policies of insurance effected by the management association and the receipt or receipts for the last premium or premiums in respect thereof;

(*j*) to enforce the rules referred to in regulation 9 (1) (*o*); and

(*k*) to keep a register of members in such manner as the management association decides.

(2) The management association shall for the purpose of effecting any insurance under subregulation (1) (*a*), be deemed to have an insurable interest in the replacement value of the building and shall, for the purpose of effecting any other insurance under that subsection, be deemed to have an insurable interest in the subject matter of such insurance.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June

1989: Regulations in terms of section 11 / 9. (1) Subject to any restriction imposed or direction given at a general meeting of members, the management association shall have the power—

9. (1) Subject to any restriction imposed or direction given at a general meeting of members, the management association shall have the power—

(*a*) to establish for administrative expenses a levy fund sufficient in the opinion of the management association for the repair, upkeep, control, management and administration of the housing development scheme, accommodation, land, common property, and the building or buildings relating thereto, including a reasonable provision for future maintenance and repairs, for the payment of rates and taxes, for the supply of electric current, gas, water, fuel and sanitary and other services to the building and land and any premiums of insurance, and for the discharge of any obligation of the management association;

(*b*) to require from the members whenever necessary, to pay the levy for the purposes of satisfying any claims against the management association;

(*c*) to determine from time to time the amounts to be raised for the purposes aforesaid;

(*d*) to raise the amounts so determined by requiring the members to pay the levy in terms of regulation 14;

(*e*) to open and operate a current account and a savings account with a banking institution or a building society;

(*f*) to appoint employees as it may deem fit;

(*g*) to purchase, hire or otherwise acquire movable property for purposes of the operation of the housing development scheme;

(*h*) to expand the facilities and services;

(*i*) to borrow money required by it in the performance of its duties or the exercise of its powers;

(*j*) to secure the repayment of money borrowed by any manner permitted in law, including the cession of any unpaid levies whether due and payable or not, or by suretyship or by encumbering any property vested in the management association;

(*k*) to invest any money of the fund referred to in paragraph (*a*);

(*l*) to enter into an agreement with the local authority or any person or body for the supply to any building and the land of electric current, gas, water, fuel and sanitary and other services;

(*m*) to enter into an agreement with any member for the provision of amenities or services by him to the accommodation relating to such housing interest or to the member or occupier thereof;

(*n*) to do all things reasonably necessary for the enforcement of the rules referred to in paragraph (*o*) and the control, management and administration of the common property;

(*o*) to make rules for the conduct of members, which rules shall not be in conflict with the Act or a regulation, shall be reasonable, and shall apply equally to all members in respect

of accommodation put to substantially the same use;

(*p*) to appoint a committee of the management association, which, subject to the directions of the management association, shall exercise all the powers and perform all the functions conferred upon it by the management association and which committee shall meet and conduct its affairs as the committee may from time to time decide; and

(*q*) to prohibit the transfer or any alienation of any housing interest unless any levy or other money due to the management association in respect of the housing interest concerned has been paid or provision has been made to the satisfaction of the said management association for the payment thereof.

(2) Any contribution levied under any provision of subregulation (1) shall be due and payable on the passing of a resolution to that effect by the management association and may be recovered by the management association by action in any court including any magistrate's court of competent jurisdiction, from persons who are members at the time such resolution is passed.

(3) The management association shall on the application of a member or any person authorised by such member certify in writing—

(*a*) the amount determined as the contribution of that member;

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

(*c*) the extent to which such contribution has been paid by that member; and

(*d*) the amount of any rate paid by the management association and not recovered by it.

(4) The management association shall have the right to assign or cede to the managing agent any of its rights and duties in terms of these regulations.

(5) All general meetings other than the annual general meeting of the management association shall be called special general meetings and annual general meetings shall be held once every year: Provided that not more than 15 (fifteen) months shall elapse between the date of one annual general meeting and that of the next.

(6) At all meetings of the management association matters shall be determined by a simple majority vote of those present in person or by proxy and a member shall, on a show of hands have one vote, or on a poll, one vote for each housing interest alienated to such member.

(7) (*a*) The management association shall determine the matters relating to meetings of members and proceedings at such meetings, and until such determination the following shall apply—

(i) at least 14 (fourteen) days notice of every general meeting, specifying the place, within the magisterial district where the housing development scheme is situated, the date and hour of the meeting, and in the case of special business the general nature of such business shall be given in that notice to all members, the developer and the managing agent:

(ii) the following business shall be transacted at an annual general meeting—

(*aa*) the approval with or without amendment of the budget referred to in regulation 12 (1);

(*bb*) the election of the committee referred to in subregulation (1) (*p*);

(*cc*) any special business of which due notice has been given; and

(*dd*) the determination of the *domicilium citandi et executandi* of the management association.

(*b*) No business shall be transacted at a general meeting unless a quorum of members is present in person or by proxy at the time when the meeting proceeds to commence business, and a quorum shall be at least one member and one representative of the developer, or two members.

(*c*) The chairman of the committee envisaged in subregulation (1) (*p*) shall preside at every general meeting of the management association.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 10. A developer shall convene a meeting of the members of the management association, not later than 60 (sixty) days after the establishment of the management association, at which meeting he shall furnish the members with a certificate from the local authority within whose jurisdiction the land is situated, to the effect that all rates and taxes due in respect of the land up to the date of the establishment of the management association have been paid.

10. A developer shall convene a meeting of the members of the management association, not later than 60 (sixty) days after the establishment of the management association, at which meeting he shall furnish the members with a certificate from the local authority within whose jurisdiction the land is situated, to the effect that all rates and taxes due in respect of the land up to the date of the establishment of the management association have been paid.

11. As from the date of establishment of the management association the rights and obligations of the developer arising from the management agreement shall be deemed to have been assigned to the management association.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 12. (1) The management association shall prepare, or cause to be prepared, for each fiscal year of the management association, a detailed budget of expected income and expenditure of the management association, in connection with the proper control and operation of the relevant housing development scheme, for the following year, including a reasonable provision for future maintenance and repairs, and shall have such budget approved at the management association's annual general meeting.

12. (1) The management association shall prepare, or cause to be prepared, for each fiscal year of the management association, a detailed budget of expected income and expenditure of the management association, in connection with the proper control and operation of the relevant housing development scheme, for the following year, including a reasonable provision for future maintenance and repairs, and shall have such budget approved at the management association's annual general meeting.

(2) The budget for each fiscal year shall be made available to all members of housing interests at least 14 (fourteen) days prior to the date of the management association's annual general meeting.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 13. The rate of interest for the purposes of section 8 (1) (a) (i) of the Act, shall be the rate of interest prescribed from time to time in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

13. The rate of interest for the purposes of section 8 (1) (*a*) (i) of the Act, shall be the rate of interest prescribed from time to time in terms of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 14. (a) Subject to paragraphs (b) and (c), the liability of a member to pay the levy for the purposes of regulation 9 (1) (a), shall be a percentage, expressed to 4 decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the accommodation, but the floor area, correct to the nearest square metre, of all the accommodation in the housing development scheme.

14. (*a*) Subject to paragraphs (*b*) and (*c*), the liability of a member to pay the levy for the purposes of regulation 9 (1) (*a*), shall be a percentage, expressed to 4 decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the accommodation, but the floor area, correct to the nearest square metre, of all the accommodation in the housing development scheme.

(*b*) A developer shall be entitled to make rules in terms of which the liability of a member to pay the levy, as envisaged in paragraph (*a*), is changed: Provided that—

(i) such change shall be a percentage expressed to 4 decimal places;

(ii) such change is made by the developer before alienating any housing interest in the housing development scheme for the first time;

(iii) the developer shall disclose the change in the contract; and

(iv) where the developer fails to make such disclosure, levies for the purposes of regulation 9 (1) (*a*) shall be paid in accordance with paragraph (*a*).

(*c*) The developer shall on the basis set out in paragraphs (*a*) or (*b*), as the case may be, pay levies from the date of establishment of the management association on all housing interests which are owned by the developer and have not yet been alienated by him.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 15. Where a housing development scheme is operated pursuant to or in connection with membership of or participation in any club, association, organisation or other voluntary association, then in such case the constitution or contract or other agreement

governing or regulating such club, association, organisation or other voluntary association, shall be drafted in terms of these regulations, as if such club, association, organisation or other voluntary association were the management association.

15. Where a housing development scheme is operated pursuant to or in connection with membership of or participation in any club, association, organisation or other voluntary association, then in such case the constitution or contract or other agreement governing or regulating such club, association, organisation or other voluntary association, shall be drafted in terms of these regulations, as if such club, association, organisation or other voluntary association were the management association.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 16. Any person who contravenes any provision of these regulations is liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years.

16. Any person who contravenes any provision of these regulations is liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1351 of 30 June 1989: Regulations in terms of section 11 / 17. This notice shall come into operation on 1 July 1989.

17. This notice shall come into operation on 1 July 1989.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2087 of 29 September 1989: Regulations in terms of section 11 (1) (d)

GNR.2087 of 29 September 1989: Regulations in terms of section 11 (1) (*d*)

This regulation was published in Government Notice R2087 in *Government Gazette* 12112 of 29 September 1989 as an exemption to the founding regulations.

The Deputy Minister of Economic Affairs and Technology acting on behalf of the Minister of Economic Affairs and Technology has, in terms of section 11 (1) (*d*) of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulation contained in the Schedule.

SCHEDULE

The South African National Life Assurance Company Limited (SANLAM) and any associate or sub-associate of SANLAM is hereby exempted from the regulations contained in *Government Notice* No.

R.1351 of 30 June 1989, in respect of housing development schemes developed by SANLAM or an associate or sub-associate of SANLAM provided that any housing development scheme meets with the following requirements:

(*a*) that the housing interests under the development schemes are offered to retired persons by way of lease;

(*b*) that all amounts payable by a retired person in accordance with the contract of lease or other contractual document for an accommodation unit, including levies for maintenance and management of the housing development scheme, from the start and for the full duration of the contract, are specified as fixed amounts;

(*c*) that in the event of the development being done by an associate or sub-associate of SANLAM, SANLAM shall enter into a contract with the retired person whereby SANLAM undertakes to ensure that the relevant associate or sub-associate will have, at all times, sufficient funds to comply with its obligations in terms of the contract of lease; and

(*d*) that the contract of lease and any other contractual documents are so drawn up that a retired person can cancel the contract at any stage during the period of its validity by giving three months written notice of cancellation in advance.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.123 of 23 February 1990: Regulations promulgated in terms of section 11 (1) (d)

GNR.123 of 23 February 1990: Regulations promulgated in terms of section 11 (1) (*d*)

This regulation was published in Notice 123 of 23 February 1990 in *Government Gazette* 12300.

The Deputy Minister of Trade and Industry acting on behalf of the Minister of Trade and Industry and Tourism has, in terms of section 11 (1) (*d*) of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulation contained in the Schedule.

SCHEDULE

The Housing League is hereby exempted from the provisions of the Act as well as from the regulations contained in Government Notice No. R.1351 of 30 June 1989, in respect of the housing development scheme known as the **Fish Hoek Project**, on condition that the Housing League retains control and management of the project and should the Housing League be privatised, this exemption would no longer be valid.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1154 of 1 June 1990: Regulations promulgated in terms of section 11 (1) (d)

GNR.1154 of 1 June 1990: Regulations promulgated in terms of section 11 (1) (*d*)

This regulation was published in Government Notice R1154 in *Government Gazette* 12497 of 1 June 1990.

The Deputy Minister of Trade and Industry, acting on behalf of the Minister of Trade and Industry and Tourism has, in terms of section 11 (1) (*d*) of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulation contained in the Schedule.

SCHEDULE

The South Coast Good Samaritan Society is hereby exempted from the provisions of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), as well as from the provisions of Government Notice No. R. 1351 of 30 June 1989, in respect of the housing development scheme known as Umdoni Retirement Village, situated within the municipal boundaries of the Pennington Town Board.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (g) (i)

GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (*g*) (i)

These regulations were published by Government Notice R2092 in *Government Gazette* 12717 of 31 August 1990.

The Deputy Minister of Trade and Industry and of National Education, acting on behalf of the Minister of Trade and Industry and Tourism has, in terms of section 11 (1) (*g*) (i) of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulations contained in the Schedule.

SCHEDULE

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (g) (i) / 1. (i) Any application in regard to the endorsement of a title deed in terms of section 4C (3) of the Act shall be prepared by a practising attorney (who does not necessarily have to practise in the province where the land is situated), notary public or conveyancer, essentially in the form of Form A annexed to these regulations.

1. (i) Any application in regard to the endorsement of a title deed in terms of section 4C (3) of the Act shall be prepared by a practising attorney (who does not necessarily have to practise in the province where the land is situated), notary public or conveyancer, essentially in the form of Form A annexed to these regulations.

(ii) Any essential change or interlineation in such application shall be initialled by the attorney, notary public or conveyancer who prepared such application.

(iii) The provisions of subregulation (i) shall not prohibit an attorney, notary public or conveyancer, who is employed by the State, from preparing, in the course of his duties, any document mentioned therein, which is necessary for the performance of any function which has to be executed by the department wherein he is employed.

(iv) If a certificate mentioned in subregulation (i) is signed by an attorney or notary public, the fact that the signatory is a practising attorney or notary public, shall be confirmed by a practising conveyancer, who shall co-sign the certificate by the affixing of the following certificate thereto:

Co-signed by me

.....
CONVEYANCER

.....
(Surname and initials to be
provided in capital letters)

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (g) (i) / 2. The person who signs the drafting certificate as prescribed by regulation 1, shall assume responsibility for the correctness of the under-mentioned facts as mentioned in the said application or which are relevant in regard to the application, namely:

2. The person who signs the drafting certificate as prescribed by regulation 1, shall assume responsibility for the correctness of the under-mentioned facts as mentioned in the said application or which are relevant in regard to the application, namely:

(*a*) in the case of an application as mentioned in regulation 1 (i) which is signed by a person in his capacity as an executor, trustee, guardian, curator, liquidator or judicial manager, that, from investigation of documents which have been presented to him as confirmation of such appointment, he is satisfied that such person has indeed been appointed in that capacity;

(*b*) that, to the best of his knowledge and belief and after having duly made enquiries—

(i) the names, identity number or date of birth and marital status of a natural person who makes the application, and in the case of any other person or a trust making application, the name and registration number (if such number exists), of such a person or trust, are correctly state in that application,

(ii) in the case where a woman who is married out of community of property, or a woman whose marriage is determined by the law of another country, is not assisted by her husband in the signing of an application, the marital power is excluded;

(iii) the necessary authority has been obtained for the signing of such application in a representative capacity on behalf of a company, church, society, association or other body of persons or an institution making application;

(iv) the application is authorised and in accordance with the constitution, regulation or

charter, as the case may be, of any church, society, close corporation, association, or other body of persons, or other institution excluding a company, except a shareblocks company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980), or the deed of a trust as the case may be; and

(v) that a trustee who signs an application, is acting in accordance with the powers granted to him by the relevant deed of trust or will, and that any required security has been lodged with the Master of the Supreme Court.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (g) (i) / 3. (i) The fees payable for the preparation of an application for an endorsement in terms of section 4C (3) of the Act including the registration of such endorsement, shall be the sum of R145 which shall include all attendances with regard to documents and other proof required in terms of regulation 2: Provided that if more than one property is to be endorsed in respect of the same scheme, an additional fee of R40 for each additional property shall be allowed.

3. (i) The fees payable for the preparation of an application for an endorsement in terms of section 4C (3) of the Act including the registration of such endorsement, shall be the sum of R145 which shall include all attendances with regard to documents and other proof required in terms of regulation 2: Provided that if more than one property is to be endorsed in respect of the same scheme, an additional fee of R40 for each additional property shall be allowed.

(ii) These fees payable for the preparation of any consent by any bondholder or owner in terms of section 4C (1) of the Act shall be R100: Provided that, if there is more than one bond, an additional fee of R40 for the second and each subsequent bond may be charged where this document is drawn by the same conveyancer who drew the consent required in connection with the first bond between the same parties over the same property.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.2092 of 31 August 1990: Regulations in terms of section 11 (1) (g) (i) / Form A APPLICATION IN TERMS OF SECTION 4C (3)

Form A

APPLICATION IN TERMS OF SECTION 4C (3)

Prepared by me

.....

ATTORNEY/CONVEYANCER/NOTARY PUBLIC

.....

(Surname and initials to be provided in capital letters)

APPLICATION IN TERMS OF SECTION 4C (3) OF THE HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT, 1988 (ACT No. 65 OF 1988)

I ....., the developer of a housing development scheme at ....(give full details of the land which is the subject of the development scheme) hereby apply for the endorsement of ..... (indicate whether it is a deed of grant, deed of transfer or certificate of title) .... (furnish the sequence number followed by a slash mark and the year number), in terms of the above-mentioned section.

SIGNED AT.....ON.....

WITNESSES:

1..... .....

DEVELOPER

2.....

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1349 of 1991: Regulations promulgated in terms of section 11

GNR.1349 of 1991: Regulations promulgated in terms of section 11

The Minister of Trade and Industry and Tourism has, in terms of section 11 of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgated the regulations contained in the Schedule.

SCHEDULE

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1349 of 1991: Regulations promulgated in terms of section 11 / 1. Regulations 7 to 14 of Government Notice R1531 of 30 June 1989, shall be applicable to any housing development

scheme irrespective of the date of completion of such scheme, excluding a housing development scheme conducted in pursuance of a development scheme or a share block scheme.

1. Regulations 7 to 14 of Government Notice R1531 of 30 June 1989, shall be applicable to any housing development scheme irrespective of the date of completion of such scheme, excluding a housing development scheme conducted in pursuance of a development scheme or a share block scheme.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.1349 of 1991: Regulations promulgated in terms of section 11 / 2. This notice shall come into operation on 1 July 1991.

2. This notice shall come into operation on 1 July 1991.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.224 of 17 February 1995: Regulations in terms of section 10

GNR.224 of 17 February 1995: Regulations in terms of section 10

This regulation was published in Government Notice R224 in *Government Gazette* 16266 of 17 February 1995.

I, Trevor Andrew Manuel, Minister of Trade and ndustry, do hereby, under the powers vested in me by section 10 of the Housing Development Schemes for Retired Persons Act, 1988 (Act No. 65 of 1988), promulgate the regulations in the Schedule.

SCHEDULE

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.224 of 17 February 1995: Regulations in terms of section 10 / 1. The project known as Ramsgate Retirement Centre, situated within the municipal boundaries of the Ramsgate Town Board, is hereby exempted from the provisions of section 6 of the above Act, as well as from the provisions of regulations 7 to 14 of the regulations contained in Government Notice No. R. 1351 of 30 June 1989, subject to the following conditions:

1. The project known as Ramsgate Retirement Centre, situated within the municipal boundaries of the Ramsgate Town Board, is hereby exempted from the provisions of section 6 of the above Act, as well as from the provisions of regulations 7 to 14 of the regulations contained in Government Notice No. R. 1351 of 30 June 1989, subject to the following conditions:

(*a*) That the title deed of the land concerned be endorsed in accordance with the provisions of

section 4C of the said Act, to the effect that such land is subject to a housing development scheme;

(*b*) that the management of phase 1 of Ramsgate Retirement Centre be placed in the hands of the Management Committee which shall consist of two ordinary members, two resident members of Ramsgate Retirement Centre, one representative nominated by the Town Board and the Directorate of the South Coast Good Samaritan Society;

(*c*) that the financial and structural control of phase 2 of Ramsgate Retirement Centre be conducted by the Ramsgate Town Board through majority representation on the Steering Committee of the Ramsgate Retirement Centre which shall after completion of phase 2 be transferred to the South Coast Good Samaritan Society; and

(*d*) that payments by purchasers in the abovementioned project be made on a progressive basis directly relating to the progress of the construction of their particular units.

Regulations / Housing / HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS ACT 65 OF 1988 / REGULATIONS / GNR.224 of 17 February 1995: Regulations in terms of section 10 / 2. Government Notice No. R.1845 dated 10 August 1990 is hereby withdrawn.

2. Government Notice No. R.1845 dated 10 August 1990 is hereby withdrawn.

TA MANUEL
Minister of Trade and Industry