Annexure D

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.]

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 / 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 presentin 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 industry, 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