

**CHAPTER 33:04 - SECTIONAL TITLES: SUBSIDIARY LEGISLATION**  
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**SECTIONAL TITLES REGULATIONS**

*(under section 56)*

*(23rd September, 2002)*

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S.I. 77, 2002,  
S.I. 8, 2003.

**1. Citation**

These Regulations may be cited as the Sectional Titles Regulations.

**2. Interpretation**

In these Regulations-

- (a) a word or expression to which a meaning has been assigned in the Act shall bear that meaning unless the context otherwise requires;
- (b) **"sectional title file"** means the file referred to in regulation 11; and
- (c) **"the Act"** means the Sectional Titles Act.

**3. Notification of tenants about development scheme**

(1) Where a developer intends to convert an existing building into a development scheme in terms of section 6(2) of the Act, he shall furnish, to the tenants occupying that building as required by section 6(2)(b), full particulars of the development scheme.

(2) The particulars shall indicate the following-

- (a) the name of the scheme;
- (b) the description and extent of the land upon which the building or buildings comprising the proposed scheme are situated, as reflected in the title deed of such land;
- (c) the full name and address of the developer;
- (d) the number or description of every separate category of units in the buildings comprised in the scheme;
- (e) the number of garages and the number of parking places which are provided in the scheme;
- (f) any facilities available as common property under the scheme;
- (g) a copy of a report by an architect or a professional engineer in respect of the common property relating to the general physical condition of the building or buildings comprised in the scheme, with specific reference to any defects in the buildings and the services and facilities relating thereto;
- (h) a specified estimate by the developer or his agent of the annual expenditure in respect of-
  - (aa) the repair, upkeep, control, management and administration of the common property;
  - (bb) the payment of rates and taxes and other local authority charges in respect of the building or buildings and land concerned;
  - (cc) the charges for the supply of electricity, gas, water, fuel and sanitary and other services to the building or buildings and land concerned;
  - (dd) insurance premiums; and
  - (ee) all other costs in respect of the common property which are normally recovered from the owners of units as contemplated in section 40(1) of the Act.

#### **4. Sectional plans**

(1) A sectional plan prepared in terms of section 7(1) of the Act and lodged with the Director for approval in terms of section 9(1) for registration in the Deeds Registry shall comply with the following requirements-

- (a) it shall be prepared on a drawing medium of durable and good quality approved by the Director, of any of the following sizes: 297 x 210 mm; 297 x 420 mm or 297 x 841 mm and in black ink of a good quality:  
Provided that any departure from these requirements shall require the prior written approval of the Director;
- (b) only one side of the sheet shall be used;
- (c) the binding margin shall be along the 297 mm side and sheets larger than 297 x 210 mm shall be folded to that size with the folds clear of the binding margin:  
Provided that sheets required by the Director shall not be folded;
- (d) margins 40 mm wide along the 297 mm binding side of the sheets and 10 mm wide along the other sides shall be provided and such margins, subject to the provisions of paragraph (h), shall be left free of any writing or drawing;
- (e) all linear measurements recorded on such plan shall be in metres to two decimal places;
- (f) where angles or angles of direction are required to be shown on such a plan they shall be recorded to 10 seconds;
- (g) the scale to which any plan is prepared shall be one of the following 1/1 000, 1/1 250, 1/1 500, 1/2 000, 1/2 500, 1/3 000, 1/4000, 1/5 000, 1/6 000 or 1/7 500, or shall be to any of the said scales in which the denominator can be multiplied or

divided by ten to any integral power:

Provided that-

- (i) the size of the figure shall be sufficiently large to show all the required details, and
  - (ii) if necessary, block plans, floor plans and cross-sections of a building may be shown on more than one sheet;
  - (h) any addition, alteration or interlineation on a sectional plan shall be initialled by the preparer thereof and for this purpose, the margin on the right hand side of the sheet opposite such addition, alteration or interlineation shall be used;
  - (i) the Director may refuse to approve a sectional plan if, in his opinion, that plan is dilapidated, has been prepared in a careless manner, or the appearance thereof is spoilt by additions or alterations, or the writing or any drawing thereon does not, owing to faintness or other reason, ensure durability;
  - (j) the developer shall furnish the architect or land surveyor with all documents and particulars required by him to prepare the sectional plan;
  - (k)
    - (i) where the scheme comprises more than one building, the buildings on the sectional plan shall be consecutively numbered commencing with the figure "1",
    - (ii) all sections in a scheme shall be numbered consecutively on the sectional plan commencing with the figure "1",
    - (iii) the number allocated to a section on the sectional plan shall be allocated to all parts of that section,
    - (iv) the number allocated to a section on a sectional plan of subdivision, consolidation and extension shall continue from the last number used for the scheme: Provided that if a section is extended it shall retain the same number, and
    - (v) an exclusive use area shall be uniquely numbered;
  - (l) where the boundaries of a section or of a part thereof cannot be defined by reference to its floor, walls and ceiling, such boundaries shall be defined in a manner acceptable to the Director;
  - (m) the common boundary between an exclusive use area created in terms of section 29(1) or 29(2) of the Act, and a section or common property shall be, in the case of physical features, the median line of the dividing floor, wall, ceiling, fence or other similar feature, unless boundaries have been described in a different manner on the sectional plan; otherwise a boundary which is not a physical feature shall be described in a manner acceptable to the Director, or in terms of beacons determined in accordance with the provisions of the Land Survey Act, which beacons shall be described, and sufficient data given on such plan to define the area and to determine the location thereof in relation to the building, section or boundaries of the land; and
  - (n) each sheet shall contain the following-
    - (i) the title of the sheet,
    - (ii) the sheet number and, in addition thereto, an indication of the number of sheets of which the sectional plan shall consist as follows-  
"Sheet ..... of ..... sheets",
    - (iii) the name and address of the architect or land surveyor concerned or, if he is practising with a firm of architects or land surveyors, his name and the name and address of the firm, all in block letters, the signature of the architect or land surveyor, and his professional designation,
    - (iv) the date on which the architect or land surveyor signed the sheet,
    - (v) a space which shall be provided for the approval certificate of the Director, and
    - (vi) such notes as the architect or land surveyor may wish to make.
- (2) A sectional plan shall consist of the following sheets which, subject to the provisions of the Act and subregulation (3), shall contain the particulars prescribed by this regulation:  
Provided that if such plan is intended for the purposes of a subdivision, consolidation or

extension of a section or sections, for the extension of a scheme or common property, in the circumstances referred to in section 29(5) of the Act, for the amendment of a scheme due to the destruction of or damage to a building or buildings, or for the amendment of a sectional plan in terms of section 15(1) of the Act, it need only comprise such sheets as are affected by such amendments, and the heading of such plan shall be styled as an amending sectional plan-

- (a) a first sheet which shall be in the form of Form A in the Schedule, and which shall contain, in addition to the particulars mentioned in subregulation (1)(n), the following-
  - (i) the name of the scheme,
  - (ii) the description of the land as reflected on the relevant approved general plan or approved diagram of the land,
  - (iii) the number of the relevant approved general plan or of the approved diagram of the land;
  - (iv) the number of the section or part of a section that is found in every building: Provided that if a building consists only of common property, it shall be described as such,
  - (v) the nature of any encroachment on the land to which the scheme relates,
  - (vi) a certificate signed by the architect or land surveyor that the sectional plan has been prepared from actual measurements taken by him or under his direction: Provided that where the responsibility for the preparation of the sectional plan is carried by more than one person, each of such architects or land surveyors shall affix a certificate to this sheet, and such certificate shall disclose to what extent he accepts responsibility for the preparation of the sectional plan,
  - (vii) the name of the local authority,
  - (viii) the sheet number on which every exclusive use area can be found,
  - (xi) space for-
    - (aa) the signature of the Registrar and his reference number, and
    - (bb) the signature of the Director and his reference number;
- (b) a sheet or sheets on which a block plan is prepared, which shall, in addition to complying with the provisions of section 7(3)(a) of the Act and subregulation (1)(n), contain or indicate the following-
  - (i) a description of contiguous land, and the names of contiguous streets, if any,
  - (ii) (aa) the position at ground level of the external surfaces of the walls of all buildings shown as a solid line, together with the horizontal distances between each rectilinear cadastral boundary and the buildings nearest to such boundary: Provided that where such external surfaces of any walls are interrupted at ground level by features such as archways, doorways or similar openings, such external surfaces shall likewise be shown as a solid line,
    - (bb) the greatest extent to which the external surfaces, excluding roof overhangs, unless any such over-hang encroaches over the cadastral boundary, protrude beyond the external surfaces of the building at ground level shown by distinctive broken lines, together with the horizontal distance between each rectilinear cadastral boundary and the nearest protrusion to such boundary: Provided that if a basement area determined by the internal surfaces of the walls projects beyond the external surface of the building at ground level, such projection shall likewise be shown separately by a distinctive broken line: Provided further that a brief description shall be given of all parts of the building indicated by a distinctive broken line,
  - (iii) any encroachment on the land to which the scheme relates, and

- (iv) a sign indicating the true north direction;
- (c) a sheet or sheets on which the diagrammatic floor plan in respect of each story in the building or buildings referred to in section 7(3)(c) and (d) of the Act are shown and which shall contain, in addition to the particulars mentioned in subregulation 4(1)(n), the following-
  - (i) the boundaries of the sections shown as a solid line,
  - (ii) the common property areas by means of distinctive broken lines,
  - (iii) an indication of the position of the diagrammatic cross-sections when required in terms of subregulation 4(3),
  - (iv) the number of each section or part of such section,
  - (v) a sign indicating the true north direction,
  - (vi) such other information as may be necessary to define each section, and
  - (vii) an exclusive use area as referred to in subregulation 4(1)(m), which shall be delineated by means of distinctive broken lines and shall express the area to the nearest square metre:

Provided that if details cannot clearly be shown on the sheet, such details may be shown in an inset or on an additional sheet as contemplated in paragraph (f),

- (d) a sheet or sheets containing in numerical sequence-
  - (i) the floor areas of the sections as referred to in section 7(3)(e) of the Act, and
  - (ii) the participation quotas in respect of the sections in the schedule referred to in section 7(3)(g) of the Act:

Provided that the participation quotas of the separate sections shall be made up in such a way that the total participation quota is equal to 100,00; and

- (e) a sheet or sheets containing the insets referred to in paragraphs (b)(vi) and (c)(vii).

(3) A sectional plan shall, where uncertainty or ambiguity about the boundaries of a section, as defined in the Act, may exist, shall contain an additional sheet or sheets that contain diagrammatic cross-sections of the building or buildings of every floor in the building or buildings, detailed sufficiently to indicate the boundaries of every section, and that contain, in addition to the particulars specified in subregulation 4(1)(n), the following-

- (a) the number of the building and the name or number of every floor; and
- (b) such other information as may be necessary to define every section.

## **5. Submission of sectional plan to Director**

(1) The submission of a sectional plan to the Director for his approval in terms of section 9 of the Act shall be in the form of Form AB in the Schedule and shall be accompanied by one paper copy and two copies of the sectional plan concerned on durable drawing material approved by the Director.

(2) The certificate issued by an architect or a land surveyor in terms of section 9(2) shall be in the form of Form B in the Schedule.

(3) In addition to the requirements of section 9(2) of the Act, the submission shall also be accompanied by the other documents and plans listed in Form AB referred to in subregulation (1).

(4) The field book or field plan shall contain the original record of all measurements taken in the field, the name of the person who took the measurements, and the date on which the measurements were taken.

(5) The calculations shall include the following-

- (a) the calculations of the dimensions of the sections to the median lines from the field measurements;
- (b) sufficient calculations to indicate how the area of each section or exclusive use area was determined and how it was checked;
- (c) the calculations of the participating quota of each section;

- (d) a list of co-ordinates of at least two corners or identified permanent features of each building:  
Provided that the distances between such corners or features shall be adequate to provide an accurate determination of the position of each building:  
Provided further that the co-ordinates may be listed on the copy of the block plan;
- (e) a copy of the block plan on which the corners or identified permanent features are indicated and described; and
- (f) the calculations relevant to the fixing and checking of the buildings to the boundaries of the land and exclusive use areas in relation to the building, section or boundaries of the land.

(6) The median dimension plan shall indicate the boundaries and the final dimensions of each section as derived from the field measurements and the consistency adjustments.

#### **6. Field measurements**

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

(2) Sufficient measurements shall be made to enable all median dimensions to be calculated and checked, so as to be consistent with the dimensions of the building as a whole, and the sections and other details on the sectional plan to be correctly depicted.

(3) The provisions of the Land Survey Act and the regulations made thereunder shall apply to the manner in which, and the accuracy to which, the survey of buildings and exclusive use areas whose boundaries are not represented by physical features of permanent nature, shall be performed, and to the manner and the form in which the records of such surveys shall be prepared and lodged with the Director.

#### **7. Accuracy and correctness of sectional plan**

(1) The Director may at any time check, in the field, the accuracy or correctness of a sectional plan, or any measurement recorded by a land surveyor or architect.

(2) Where the Director finds a sectional plan, or measurement to be incorrect, he may take such action as he considers appropriate in terms of the Act.

#### **8. Application for opening of sectional title register**

(1) An application for the opening a sectional title register in terms of section 12(1) of the Act shall be in the form of Form C in the Schedule.

(2) The application referred to in subregulation(1) shall be accompanied by the title deed to any registered real right, if the land is subject to such a right, excluding rights to minerals, which title deed shall be suitably endorsed to indicate that the land described therein is subject to a development scheme and is registered in the sectional title register:

Provided that where a certificate has been submitted by a conveyancer to the effect that the title deed to such real rights is not available, the Registrar shall endorse the Registry duplicate of such title deed, and, if the original title deed is at any time lodged with the Registrar for any purpose, he shall make a similar endorsement thereon.

(3) The schedule contemplated in section 12(3)(b) of the Act shall, in addition to the particulars prescribed in the section, contain the following-

- (a) the name of the scheme;
- (b) the full name and address of the developer;
- (c) the number of the title deed of the land concerned; and
- (d) in the case of land defined on an approved diagram, the number of the title deed with which the diagram is filed.

#### **9. Certificates of registered sectional title**

(1) A certificate of registered sectional title referred to in section 12(3)(f) of the Act shall be prepared by a conveyancer and be in the form of Form D in the Schedule, and shall be signed and dated by the Registrar and be sealed with his seal of office.



(2) Certificates of registered sectional title shall be on paper of durable and good quality of size A4 standard paper and shall be written, typed or printed in size not less than 2 mm, with black ink of good quality.

(3) A certificate of registered sectional title that does not comply with the requirements of subregulation (2) shall be rejected by the Registrar.

(4)(a) Subject to the provisions of paragraph (b), a certificate of registered sectional title shall be lodged in duplicate with the Registrar.

(b) Where the procedure is followed, in the Deeds Registry, of reproducing deeds and documents, and of keeping such reproductions instead of the original such deeds or documents, it shall, notwithstanding anything to the contrary in these Regulations, not be necessary to lodge a duplicate original of such deed or document for filing in the Deeds Registry, and, upon registration, such deed or document shall be deemed to be the copy filed in the Deeds Registry until such time as the reproduction of the deed or document is filed in lieu thereof.

(5) The provisions of this regulation shall apply *mutatis mutandis* with reference to any certificate of registered sectional title or sectional title deed issued under any other provision of the Act.

#### **10. Numbering of sectional plans on registration**

(1) The distinctive number allotted to a sectional plan in terms of section 13(1)(a) of the Act shall be a consecutive number, starting each year with the figure "1", and shall be followed by an oblique line and the year in which the sectional plan is registered.

(2) The Registrar may refuse to register a sectional plan if, in his opinion, the plan is dilapidated.

#### **11. Conditions for registration of sectional plan and opening of sectional title register**

(1) The sectional title register as contemplated in section 13(1)(b) of the Act shall be opened by means of a sectional title file as set out in the form of Form D in the Schedule.

(2) The Registrar shall open a sectional title file in respect of every property to be registered in accordance with the Act and these Regulations, and in that file shall be filed-

- (a) the documents referred to in section 12(3) of the Act, with the exception of the certificates of registered sectional title, the owners copy of the title deed of the land and the bond;
- (b) the copy of any notice to the Director and the local authority concerned of the registration or cancellation of the registration of a sectional plan or of the reversion of land to the land register; and
- (c) correspondence relating to the scheme concerned as a whole.

(3) Where the procedure is followed, in the Deeds Registry, of reproducing documents and of keeping such reproductions instead of the original such deeds or documents, and of maintaining a register as referred to in section 13(1)(c), the sectional title file referred to in subregulation (3) may be substituted by such reproductions and register:

Provided that the sectional title file may be maintained for such other documents as the Registrar may determine.

(4) The file number allotted to the sectional title file shall be the same as the number allotted to the sectional plan.

#### **12. Certificates of real right**

(1) The certificate of real right referred to in section 13(1)(e) of the Act shall be in the form of Form F in the Schedule.

(2) The certificate of real right referred to in section 27(6) of the Act shall be in the form of Form G in the Schedule, and shall be accompanied by the written consent of all the members of the body corporate and of every holder of a bond over a unit in the scheme.

(3) The certificate of real right referred to in section 13(1)(f) of the Act shall be in the form of Form H in the Schedule.

#### **13. Amendment, etc, of registered sectional plan**

(1) The provisions of subregulation (4) shall apply *mutatis mutandis* to a sectional plan which is to be substituted for a registered sectional plan.

(2) The Registrar shall forward a copy of the sectional plan which is substituted for a registered sectional plan to the local authority concerned.

(3) Whenever the Registrar amends the relative sectional title deed as required by section 15(5) of the Act, he shall endorse thereon that the amendment has been effected in accordance with an alteration, amendment or substitution of the registered sectional plan.

(4) Whenever the registration of a sectional plan is cancelled on the application of the developer in terms of section 15(6) of the Act, the Registrar shall make the necessary endorsement on-

- (a) each of the relevant sectional title deeds;
- (b) the titles to any real right, with the exclusion of mineral rights; and
- (c) on the schedule referred to in section 12(3)(b) of the Act.

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

(b) Any entry referred to in paragraph (a) shall contain a reference to the number of the relevant sectional plan.

(6) Whenever the registration of a sectional plan is cancelled, the Registrar shall, if a certificate of registered title referred to in section 15(7) of the Act is not issued by him, revive the developer's title deed of the land referred to in section 12(3)(c) of the Act by making an appropriate endorsement on the title deed under his signature and date.

#### **14. Registration of transfer of ownership and other rights**

(1) The deed of transfer referred to in section 18(1) of the Act shall be in the form of Form I in the Schedule.

(2) An application referred to in section 18(5) of the Act shall be in the form of Form J in the Schedule.

(3) A certificate of registered sectional title referred to in section 18(5) of the Act shall be in the form of Form K in the Schedule.

#### **15. Preparation of certificate of registration, etc**

(1) Every deed of transfer, certificate of title, certificate of registration or sectional mortgage bond shall be prepared by a conveyancer or other person empowered thereto by any Act, and the conveyancer or other person shall make and sign a certificate in the form set out in regulation 16, in the upper right hand corner on the first page of the document concerned.

(2) The conveyancer or other person referred to in subregulation (1) shall initial all alterations or interlineations in such deed of transfer, certificate or sectional mortgage bond and every page thereof not requiring a signature, and no such deed of transfer, certificate or sectional mortgage bond shall be accepted for execution or registration if it does not bear such certificate and is not so initialled.

#### **16. Preparation of and form of documentation for registration**

(1) Subject to the provisions of subregulations (3) and (4), a power of attorney, application or consent required for the performance of an act of registration in the Deeds Registry, and tendered for registration or filing of record in the Deeds Registry shall be prepared by a practising attorney, notary, conveyancer or other person empowered thereto by any Act, who shall make and sign a certificate of registration in the undermentioned form in the upper right hand corner on the first page of the document concerned.

"Prepared by me

.....

Attorney/Notary/Conveyancer/Other authorised person



*(Delete whichever is inapplicable, and write name(s) and surname in capital letters) "*

(2) Subject to the provisions of subregulation (3), any alteration or interlineation in a document referred to subregulation (1) shall be initialled by the person who prepared such document.

(3) The Registrar may waive compliance with the provisions of subregulations (1) and (2) in respect of a power of attorney, application or consent executed outside Botswana, or in respect of a power of attorney, application or consent not provided for by the Act or the Regulations.

(4) The provisions of subregulation (1) shall not prevent an attorney, notary or conveyancer in the employ of the State from preparing, in the course of his employment, any document, referred to in that subregulation.

(5) Where a certificate referred to in subregulation (1) is signed by an attorney or notary, the fact that the signatory is a practising attorney or notary shall be confirmed by a practising conveyancer who shall countersign the certificate by making and signing the following certificate thereon-

"Countersigned by me

.....

Conveyancer

*(Write name(s) and surname in capital letters)"*

#### **17. Responsibility for correctness of facts stated in documents**

The person preparing and signing the documents referred to in regulations 15 and 16 shall accept responsibility for the correctness of the facts referred to herein and stated in the deeds or documents concerned or which are relevant in connection with the registration or filing thereof, namely-

- (a) that all copies of the deeds or documents intended for execution or registration are identical at the date of lodgment;
- (b) that in the case of a deed of transfer, certificate of title or certificate of registration, all the applicable conditions of title have been correctly brought forward in that deed of transfer, certificate of title or certificate of registration;
- (c) that in the case of a document referred to in regulation 16(1) signed by a person in his capacity as executor, trustee, tutor, curator, liquidator or judicial manager, such person has in fact been appointed in that capacity, is acting in accordance with the powers granted to him, and that any surety required has been furnished to the Master of the High Court;
- (d) that to the best of his knowledge and belief and after due enquiry has been made-
  - (i) (aa) the names, Omang number or date of birth and marital status of any person being a party to a deed or document and, in the case of any other person or trust, its name and registered number, if any, of such person or trust, are correctly reflected in that deed or document;
  - (bb) in the case where a woman married out of community of property, or a woman whose marriage is governed by the law of any other country, has not been assisted by her husband in the signing of any deed or document, the marital power has been excluded or abolished;
  - (ii) in the case of a document referred to in regulation 16(1)-
    - (aa) the necessary authority has been obtained for the signing of such document in a representative capacity on behalf of a company, church, association, society or other body of persons or an institution; and
    - (bb) the transaction as disclosed therein is authorized by and in accordance with

the constitution, regulation or founding statement, as the case may be, of any church, association, close corporation, society or other body of persons, or any institution other than a company, or the trust instrument of a trust being a party to such document, and

- (e) that, in the case where the person signs the preparation certificate on a deed of transfer, certificate of title, certificate of registration or a sectional mortgage bond, he accepts responsibility that the particulars in the deed referred to in paragraph (d)(i) have been brought forward correctly from the special power of attorney or application relating thereto.

#### **18. Dealings with common property**

(1) Simultaneously with the registration of a transfer referred to in sections 20(4)(a) and 22(3) of the Act, the Registrar shall make an endorsement under his signature on the schedule of conditions referred to in section 12(3)(b) of the Act.

(2) Any sectional title deed registered pursuant to section 20(4) or 22(3) of the Act shall simultaneously be re-registered as a deed of transfer under the Deeds Registry Act.

(3) The Registrar shall register a cession of a servitude or other real right in terms of section 22 of the Act by virtue of a deed of cession in the form of Form L in the Schedule.

**19. Registration of sectional plan of sub-division, consolidation, etc** (1) An application for the registration of a sectional plan of-

- (a) subdivision;
- (b) consolidation;
- (c) extension of a section; and
- (d) extension of a scheme

shall be in the form of Form M in the Schedule.

(2) When registering the plans referred to in subsection (1), the Registrar shall allot a distinctive number to each of the said plans.

(3) The certificates of registered sectional title referred to in sections-

- (a) 24(5) and 25(5) of the Act shall be in the form of Forms N and O in the Schedule; and
- (b) section 27(12)(c) of the Act shall be in the form of Form P in the Schedule.

(4) Whenever the Registrar issues a sectional title deed under sections 24(5) and 25(5) respectively of the Act in lieu of the sectional title deed referred to in sections 24(2)(b) and 25(2)(b) respectively of the Act, he shall endorse the latter sectional title deed.

(5) The Registrar shall furnish the local authority concerned with a copy of the registered sectional plans referred to in this regulation.

#### **20. Registration of plan of extension of common property**

(1)(a) An application for the registration of a sectional plan of extension of common property shall be in the form of Form Q in the Schedule.

(b) When registering such a sectional plan under section 28(4) of the Act, the Registrar shall allot a distinctive number thereto.

(2) The Registrar shall furnish the local authority concerned with a copy of the registered sectional plan of extension.

#### **21. Exclusive use areas**

(1) The exclusive use areas referred to in section 7(3)(f) of the Act shall, where there is more than one area, be numbered and described in separate paragraphs in the certificate of real rights referred to in section 13(1)(f) of the Act.

(2) Simultaneously with the transfer of a right to an exclusive use area referred to in section 29(3) of the Act, the Registrar shall make an endorsement under his signature on the schedule of conditions referred to in section 12(3)(b) of the Act and shall notify the Director accordingly.

#### **22. Destruction of or damage to buildings**

(1) Whenever a building is damaged or deemed to have been destroyed as

contemplated in section 51 of the Act and a scheme has been authorised as provided for in section 52(1), the body corporate shall notify the Registrar, and the notification shall be in the form of Form R in the Schedule.

(2) The notice to the Registrar pursuant to subregulation (1) shall be accompanied by a schedule in terms of section 7(3)(g) of the Act which shall exclude reference to any section which has been destroyed, and the affected title of the owner of the unit or the holder of any real rights together with the consent of the holder of any mortgage bond or holder of any real rights for disposal thereof.

(3) The Registrar shall give effect to the requirements as contemplated by section 51(3)(b) of the Act by making an appropriate endorsement on the relevant deeds.

(4) The Registrar shall, in writing, advise the Director and the local authority concerned of any registration pursuant to section 51 of the Act, which advise shall be accompanied by a schedule referred to in subregulation (2), in the case of the local authority, and by the original in the case of the Director.

(5) On receipt of the notification pursuant to subregulation (2), the Director shall make the required amendments and endorsements on the sectional plan and on the Deeds Registry copy thereof.

### **23. Sectional mortgage bonds**

A sectional mortgage bond hypothecating a unit held under a sectional title deed, an exclusive use area or the right to extend a scheme held under a certificate of real right, shall be in the form of Form S in the Schedule, and shall be prepared by a conveyancer and be signed by the mortgagor, or his duly authorized agent, in the presence of a conveyancer, and the said form shall be suitably adapted when hypothecating land held under a sectional title deed or a registered notarial lease or sublease or other registered real right.

### **24. Endorsement or entries on registered deeds or other documents**

Endorsements or entries required by these Regulations to be made on registered deeds or other documents or in registers may be made thereon or therein by means of a rubber stamp, handwriting or typewriting, and shall be signed and dated by the Registrar who shall, below his signature, state the office held by him, and who shall initial any alteration or interlineation to an endorsement or entry.

### **25. Arbitration proceedings**

The provisions of the Arbitration Act shall, in so far as those provisions can be applied, apply mutatis mutandis with reference to arbitration proceedings under the Act.

### **26. Certified copies**

A certified copy of an approved sectional plan shall only be issued by the Director and shall not be issued prior to the registration thereof, unless the written consent of the architect and the land surveyor concerned, or any person legally entitled to act on his behalf, is produced to the Director :

Provided that such consent shall not be required if the Director has been supplied with evidence that such architect or land surveyor has unreasonably withheld his consent or has failed to respond in a reasonable time to a notice requesting authorization for the issue of a certified copy.

**SCHEDULE**  
**Form A**  
**TITLE PAGE**  
*(regulation 4)*

<b>SECTIONAL PLAN</b>	<b>SHEET OF SHEETS</b>	<b>DSM NO.</b>
Registered at Gaborone Registrar of Deeds		<b>APPROVED</b>  <b>Director of Surveys &amp;</b>

Date:	<b>Mapping</b>	
NAME OF SCHEME		
DESCRIPTION OF LAND		
DIAGRAM No.		
GENERAL PLAN No.		
<b>NAME OF LOCAL AUTHORITY</b>		
DESCRIPTION OF BUILDINGS		
<b>ENCROACHMENTS ON THE LAND</b>		
EXCLUSIVE USE AREAS		
CERTIFICATE		
I,....., hereby certify that I have prepared Sheets..... .....to inclusive of this Sectional Plan from survey, in accordance with the provisions of the Sectional Titles Act, 1999 and the Regulations made thereunder.		
SR No.	Compilation	GP No.

**Form AB**  
(regulation 5)

**TO:** Director of Surveys and Mapping

**SUBMISSION OF SECTIONAL PLAN  
IN TERMS OF SECTION 9 OF SECTIONAL TITLES ACT (No. 7 of 1999)**

1. (Applicant's full name).....of (postal address)  
.....(local authority area).....  
(professional registration number).....hereby apply for the approval  
of the sectional plan in respect of (name of scheme).....

The full description of the land in respect hereof is reflected on General Plan /  
Diagram.....

2. Copies of the survey records applicable to the determination of the boundaries of the  
property which have been filed in your office under reference number.....are  
submitted herewith.


3. In support of this application, the following documents are submitted:

- (a) the sectional plan comprising.....sheets, together with one paper copy and  
two copies on durable drawn material of the draft sectional plan concerned;
- (b) the field plan/field book;  
(delete as appropriate)
- (c) the media dimension plan;
- (d) the calculations;
- (e) the report;
- (f) the necessary certificates from the land surveyor concerned that the scheme is not in  
conflict with any building line restrictions appearing in the relevant title deeds; and
- (g) a copy of the schedule certified by a Conveyancer setting out the servitudes and  
conditions of tile burdening or benefiting the land.


Signed ..... Date .....

Land Surveyor/Architect

**Form AC  
EXCLUSIVE USE AREAS**

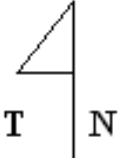
<b>SHEET OF SHEETS</b>	<b>DSM NO.</b>				
	<b>APPROVED:</b>				
	Director of Surveys & Mapping Date:				
Legend:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">E.U.A. No.</td> <td style="width: 50%;">Area Sq.metres</td> </tr> <tr> <td style="height: 40px;"></td> <td></td> </tr> </table>	E.U.A. No.	Area Sq.metres		
E.U.A. No.	Area Sq.metres				
<b>NOTES:</b>					
Signed:	DRAWING TITLE				
Date:	Exclusive use areas on the ground				

**Form AD  
FLOOR PLANS**


<b>SHEET OF SHEETS</b>	<b>DSM NO.</b>
	<b>APPROVED:</b>
	Director of Surveys & Mapping Date:
<b>NOTES:</b>	

Signed: Date:	DRAWING TITLE Floor plans

**Form AE**  
**FLOOR PLAN SHOWING CROSS-SECTIONS**

<b>SHEET OF SHEETS</b>	<b>DSM NO.</b>
	<b>APPROVED:</b>
	Director of Surveys & Mapping Date:
Signed: Date:	<b>DRAWING TITLE:</b>

**Form AF**  
**GROUND PLAN SHOWING CROSS-SECTIONS**

<b>SHEET OF SHEETS</b>	<b>DSM NO.</b>
	<b>APPROVED:</b>
	Date:



<b>NOTES:</b>	
Signed:	SCHEME
Date:	DRAWING TITLE
	SCALE

**Form AG  
PARTICIPATION QUOTA SCHEDULE**

<b>SHEET OF SHEETS</b>		<b>DSM NO.</b>
		<b>APPROVED:</b> Director of Surveys & Mapping Date:
Section No.	Area in square metres	Participation quota
<b>NOTES:</b>		
Signed:		DRAWING TITLE
Date:		Participation quota schedule

**Form B  
LAND SURVEYOR/ARCHITECT'S CERTIFICATE  
IN TERMS OF SECTION 9(2) OF THE SECTIONAL  
TITLES ACT (No. 7 of 1999)  
(regulation 5(2))**

NAME OF SCHEME : .....

DESCRIPTION OF PROPERTY: .....

I,.....hereby certify that, disregarding minor discrepancies and infringements, the above mentioned sectional plan complies with the requirements of section 9(2) of the Sectional Titles Act namely-

- (i) the proposed divisions into sections and common property complies with the provisions of the Town and Country Planning Act and the Building Control Act and the regulations made thereunder; and
- (ii) the building(s) to which the scheme relate(s) were erected in accordance with approved building plans.

SIGNED.....

DATE.....

Registration number.....

**Note : Delete and initial paragraph (ii) if section 9(2)(c) applies**

**Form C**

**APPLICATION FOR OPENING OF SECTIONAL TITLE REGISTER UNDER SECTION 12(1) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**

*(regulation 8(1))*

Prepared by me

.....

Conveyancer

I, the undersigned.....(*name of developer*)

hereby apply to the Registrar of Deeds for-

<sup>i\*</sup>1. the registration of the attached sectional plan in terms of the provisions of section 13(1)(a) of the Sectional Titles Act, 1999, and the opening of a sectional titles register in terms of the provisions of section 13(1)(b) of the aforesaid Act in respect of the scheme known as .....as will

more fully appear from sectional plan DSM No.....

held under .....

<sup>ii\*</sup>2. the issue of certificates of registered sectional title in terms of the provisions of section 13(1)(d) of the aforesaid Act in respect of the sections shown on the said sectional plan

<sup>iii\*</sup>3. the issue of a certificate of real right in terms of the provisions of section 13(1)(e) of the aforesaid Act in respect of any proviso in terms of section 27(1)

<sup>iv\*</sup>4. the issue of a certificate of real right in terms of the provisions of section 13(1)(e) of the above mentioned Act in respect of any reservation in respect of section 27(6)

<sup>v\*</sup>5. the issue of a certificate of real right in terms of the provisions of section 13(1)(f) of the aforesaid Act in respect of a right of exclusive use referred to in section 29(1)

<sup>vi\*</sup>6. the issue of a certificate of real right in terms of the provisions of section 13(1)(f) of the aforesaid Act in respect of a right of exclusive use referred to in section 29(1).

Signed at.....on.....20.....

.....  
*Signature of Developer*

**Note : Please attach, to this application, the documents and information referred to in section 12 of the Act**

**Form D**

**CERTIFICATE OF REGISTERED SECTIONAL TITLE ISSUED UNDER SECTION 12(3)(f) OF THE SECTION TITLES ACT (No. 7 of 1999)**

*(regulation 4)*

Prepared by me

.....

Conveyancer

I, Registrar of Deeds at....., hereby certify that.....

.....

is the registered owner of a unit consisting of-

(a) Section No.....as shown and more fully described in Sectional Plan No....., in the scheme known as.....

.....in respect of the land and building or buildings situate at <sup>vii\*</sup>....., of which section

the floor area, according to the said sectional plan is.....square metres in extent; and

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

(c) Ownership of the said unit is subject to the conditions contained in the schedule filed

with the sectional plan.

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone this.....day of.....in the year of Our Lord Two Thousand and.....(20.....) In my presence

.....  
**REGISTRAR OF DEEDS**  
 Registered in the Register  
 of.....  
 at Gaborone on the above date

.....  
**q.q. HIS PRINCIPAL**

**Form E  
 SECTIONAL TITLES REGISTER**

**Section:**.....

**Folio:**.....

**Area:**.....

**SECTIONAL TITLES REGISTER**

Sectional Plan DSM No.....Surveyed by Surveyor/s .....in..... .... and approved by the Director of Surveys and Mapping on the ..... Name of Scheme:.....
--

Entry No.	Sectional Title Deed No.	Date	Holding	From Entry	Area	Transferor	Transferee and Identification	Remarks

**Form F  
 CERTIFICATE OF REAL RIGHT UNDER SECTION 13(1)(e) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)  
 (regulation 12(1))**

Prepared by me  
 .....

**WHEREAS** .....(hereinafter called "the developer") has applied for the registration of a sectional plan in terms of section 12(1) of the Sectional Titles Act;

**AND WHEREAS** the developer has reserved for <sup>viii\*</sup>himself/herself the right to extend the scheme as contemplated in section 27(1) of the Act;  
**AND WHEREAS** no reservation was made by the developer in terms of section 27(1) of the Act and the body corporate has not yet been established;

**NOW THEREFORE**, in pursuance of the provisions of the said Act, I, as Registrar of Deeds at .....do hereby certify that the developer or <sup>ix\*</sup>his/her successor in title is the registered owner of the right to erect and complete from time to time within a period of ..... for <sup>x\*</sup>his/her personal account <sup>xi\*\*</sup>..... on the specified portion of the common property as

indicated on the plan filed in sectional title file number ....., and to divide such building or buildings into a section or sections and common property, and to confer the right to exclusive use over a portion of such common property upon the owner or owners of one or more units in the scheme known as .....

..... in respect of the land and building or buildings situate at <sup>xii\*\*\*</sup> ..... and shown on sectional plan No. ....

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone this ..... day of ..... in the year of Our Lord Two Thousand and ..... (20.....) In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form G**  
**CERTIFICATE OF REAL RIGHT UNDER SECTION 27(6) OF THE SECTIONAL TITLES ACT**  
**(No. 7 of 1999)**  
*(regulation 12(2))*

Prepared by me

.....  
Conveyancer

**WHEREAS** the right to extend the scheme rests with the body corporate of..... under the provisions of section 27(6) of the Sectional Titles Act:

**NOW THEREFORE**, I, the Registrar of Deeds at ..... in pursuance of the provisions of the said Act, do hereby certify that the said body corporate is the registered holder of the right to erect and complete from time to time <sup>xiii\*</sup>..... on the specified portion of the common

property as indicated on the plan filed in sectional title file number....., and to divide such building or buildings into section or sections and common property and to confer the right of exclusive use over portions of such common property upon the owner or owners of one or more of the units in the scheme known as....., in respect of the land and building or buildings situate at <sup>xiv\*\*</sup> ..... and shown on sectional plan No. ....

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone this.....day of.....in the year of Our Lord Two Thousand and.....(20.....) In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form H**  
**CERTIFICATE OF REAL RIGHT: EXCLUSIVE USE AREAS IN TERMS OF SECTION 13(1)(f)**  
**OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**  
*(regulation 12(3))*

Prepared by me

.....  
Conveyancer

**WHEREAS**.....(hereinafter called "the developer") has applied for the registration of a sectional plan in terms of section 12(1) of the Sectional Titles Act;

**AND WHEREAS** the developer has in terms of section 7(3)(f) of the said Act delineated certain exclusive use areas on the sectional plan;<sup>xv\*</sup>

**AND WHEREAS** no reservation was made by the developer in terms of section 27(1)(a) of the

said Act and the body corporate has not yet been established;<sup>xvi\*</sup>  
**NOW THEREFORE**, I, the Registrar of Deeds at....., do hereby certify that  
the developer is the registered holder of the right to the undermentioned exclusive use areas  
forming part of the common property and delineated as such on Sectional Plan No.....  
in the scheme known as <sup>xvi\*\*</sup>..... Situate at

xviii\*\*\*  
.....

In respect of-

- (1) .....
- (2) .....
- (3) .....
- (4) .....
- (5) .....
- (6) .....
- (7) .....
- (8) .....
- (9) .....
- (10) .....

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana  
at Gaborone this.....day of.....in the year of Our  
Lord Two Thousand and.....(20.....)  
In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form I**  
**DEED OF TRANSFER IN TERMS OF SECTION 18(1) OF THE SECTIONAL**  
**TITLES ACT (No. 7 of 1999)**  
*(regulation 14)*

Prepared by me  
.....  
Conveyancer

**BE IT HEREBY MADE KNOWN**

**THAT**.....appeared before me, Registrar of Deeds for  
Botswana at Gaborone, he, the said appearer, being duly authorised thereto by a Power of  
Attorney dated the.....day of.....20.....passed at  
.....granted to him by.....  
*(transferrer' s names, date of birth and marital status)*

which power of Attorney was exhibited to me this day;  
**AND THE SAID APPEARER DECLARED THAT** the said.....  
.....did on the.....day of  
*(sellers name, date of birth and marital status)*  
.....20.....sell the hereinafter mentioned property to the hereafter  
mentioned transferee;

**AND THAT** he/she did by these presents cede and transfer in full and free property to and on  
behalf of.....  
*(names and date of birth of transferee)*

His/Her Heirs, Executors, Administrators or Assigns the following property:

(a)  
**A CERTAIN:** Unit Consisting of Section No.....

**SITUATE:**  
**MEASURING:**  
**AS SHOWN AND** On sectional plan no.....  
**MORE FULLY**

**DESCRIBED:**  
**IN THE SCHEME** .....

**KNOWN AS:**  
**HELD UNDER:**  
**SUBJECT TO:**

(b) An undivided share in the common property in the scheme apportioned to the said section in accordance with the participation quota endorsed on the said sectional plan.

**WHEREFORE** the appearer, renouncing all the right, title and interest which his principal heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of and disentitled to the same and that by virtue of these presents, the said.....

(names and date of birth of transferee)

his/her heirs, executors, administrators or assigns now is and henceforth shall be entitled thereto, conformably to local custom. The State however reserving its rights and finally acknowledging that the property was sold on the.....day of ....., 20.....for the sum of.....

**IN WITNESS WHEREOF** I, the said Registrar, together with the Appearer q.q. have subscribed to these presents, and have caused the seal of office to be affixed thereto.

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the year of our Lord Two Thousand and.....(20.....).

In my presence

.....

**REGISTRAR q.q. HIS PRINCIPAL**

**OF DEEDS**

**Form J**

**APPLICATION FOR A CERTIFICATE OF REGISTERED SECTIONAL TITLE ISSUED UNDER SECTION 1 - (5) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**

(regulation 14)

Prepared by me

.....

Conveyancer

To: The Registrar of Deeds  
Private Bag 0020  
GABORONE

**WHEREAS** .....is the registered owner of an undivided  
(full names, date of birth & marital status) (state extent of share)

share in:

**CERTAIN:** Section No.....

**SITUATE:** .....

**MEASURING:** .....

**AS SHOWN AND**

**MORE FULLY DESCRIBED:** On sectional plan no.....

**IN THE SCHEME**

**KNOWN AS:** .....

**HELD UNDER:** .....

**SUBJECT TO:** .....

**AND WHEREAS** the said.....is desirous of taking out a certificate of Registered Sectional Title in respect of such undivided share.

**NOW THEREFORE** I, the undersigned,

.....

(Full names)

(Born on the.....& Marital status)

Page 1

do hereby make application for issue to me of a certificate of Registered Sectional title in



respect of an undivided.....in  
(State extent of share)

CERTAIN: .....

SITUATE: .....

MEASURING: .....

DATED at.....this.....day of.....20.....

.....  
(Applicant's signature)

As Witnesses

1. ....

2. ....

**Form K**  
**CERTIFICATE OF REGISTERED SECTIONAL TITLE ISSUED UNDER**  
**SECTION 18(5) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**  
(regulation 14)

Prepared by me

.....

Conveyancer

**KNOW ALL MEN WHOM IT MAY CONCERN:**

**THAT WHEREAS** .....is the registered owner of an undivided  
(Full names, date of birth and marital status)

.....share in:  
(state extent of share)

CERTAIN: .....

SITUATE: .....

MEASURING: .....

AS SHOWN AND

MORE FULLY DESCRIBED: On sectional plan no.:.....

IN THE SCHEME

KNOWN AS: .....

HELD UNDER: .....

**AND WHEREAS** the said .....has applied for issue to him of  
(Full names, date of birth & marital status)

a Certificate of Registered Sectional Title in respect of such undivided share.

**NOW THEREFORE**, I, the Registrar of Deeds for Botswana at Gaborone, do hereby certify that the said:

.....  
(Full names, date of birth and marital status)

His heirs, executors, administrators or assigns

is the registered owner of an undivided.....share in:  
(Extent of share)

CERTAIN: .....

SITUATE: .....

MEASURING: .....

AS SHOWN AND

MORE FULLY DESCRIBED: On Sectional Plan no. ....

IN THE SCHEME

KNOWN AS: .....

HELD UNDER: .....

SUBJECT TO: .....

**AND THAT** by virtue of these presents, the  
said.....

(Full names, date of birth and marital status)

is now and henceforth shall be entitled thereto conformably to local custom, the state however reserving its rights.

**IN WITNESS WHEREOF**, I, the said Registrar have subscribed to these presents and have caused the seal of office to be affixed thereto.

**THUS DONE AND EXECUTED** at the office of the Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the Year of Our Lord, Two Thousand and.....(20.....)

In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form L**  
**NOTARIAL DEED OF CESSION**

(regulation 18)

Protocol No.....

.....

Notary Public

**NOTARIAL DEED OF CESSION**

Be it hereby made known

That on this.....day of.....in the Year of Our Lord Two Thousand and .....(20.....), before me

.....

(Name of Notary Public)

Notary Public by lawful authority duly sworn and admitted practising in Botswana residing at ....., and in the presence of the subscribing witnesses personally came and appeared

.....  
(either the names of the Trustees of the Association or Deputy Sherrif)  
(hereinafter referred to as "the cedent")

and further came and appeared

.....  
(representative of expropriating authority duly authorised by resolution)  
(hereinafter referred to as the Cessionary)

And the Appearers declared that:

**WHEREAS** a Notarial Deed of lease/servitude/other real rights, registered in the Deeds office for Botswana at Gaborone under no.....and dated..... was entered into by and between (if lease) was ceded by.....to.....  
(Cedent) (Cessionary)

(if servitude).

In respect of: (state particulars of leased land or servitude)

**AND WHEREAS**.....has expropriated the said.....  
(expropriating authority) (state the right expropriated)

**NOW THEREFORE**, the said cedent did by these presents hereby cede and assign all its rights, title and interest in, and all its obligations under the (lease/servitude or other real right) to the cessionary, its successors in title or assigns and the cessionary hereby accepts such cession and assignment subject to all the terms and conditions of the lease/servitude/other real rights and hereby releases the cedent from all its obligations thereunder.

**IN WITNESS WHEREOF**, I, said Notary, together with the Appearers, q.q. have subscribed to these presents and have caused the seal of office to be affixed thereto.

**THUS DONE AND EXECUTED AT GABORONE** on the date, month and year aforewritten, in the presence of the subscribing witnesses and of me, the said Notary.

**AS WITNESSES**

1. ....  
.....(Cedent)

..

2. ....  
 1. ....  
 2. .... (Cessionary)  
 .....  
 Quod Attestor  
 .....  
 Notary Public

**Form M**  
**APPLICATION FOR REGISTRATION OF SECTIONAL PLAN OF**  
**SUBDIVISION/CONSOLIDATION/EXTENSION OF SECTION/ EXTENSION OF SCHEME**  
**UNDER**  
**SECTIONS 24(1), 27(6), AND 27(11) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**  
*(regulation 19(1))*

Prepared by me

.....  
 Attorney/Notary public/ Conveyancer

I, the undersigned ....., do hereby apply to the Registrar of Deeds at Gaborone for:

1. The registration of the attached sectional plan of subdivision of a section/consolidation of sections/extension of sections/extension of scheme by addition of sections/extension of scheme by addition of land to the common property <sup>xx\*</sup> in terms of the provisions of section 24(1), 25(1), 27(6), 27(11) <sup>xxx</sup> of the Sectional Titles Act, in respect of <sup>xxi</sup> +/-
2. Section No.....formerly section/sections No./Nos.....
3. as shown and more fully described on sectional plan No. DSM.....  
 in the scheme known as.....  
 in respect of the land or building or buildings situate at <sup>xxii</sup>\* .....
- .....and held under  
<sup>xxiii</sup>  
 ++.....
4. The issue of certificates of registered sectional title in terms of the provisions of section 24(5), 25(5), 27(11) of the aforesaid Act in respect of the sections shown on the said sectional plan of <sup>xxiv\*</sup> extension/subdivision/consolidation

Signed  
 at.....on.....  
 .....  
 Signature

THIS DONE AND EXECUTED at the Office of the Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the year of Our Lord Two Thousand and.....(20.....)  
 In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**IN WITNESS WHEREOF**, I, the said Registrar have subscribed to these presents, and have caused the seal of office to be affixed thereto

**THIS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the year of Our Lord

Two Thousand and.....(20.....)

In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form N**

**CERTIFICATE OF REGISTERED SECTIONAL TITLE IN TERMS OF SECTION 24(5)  
OF THE SECTIONAL TITLES ACT (No. 7 of 1999)  
(regulation 19)**

Prepared by me

.....  
Conveyancer

**WHEREAS**

.....  
(Full names, date of birth and marital status)  
is the registered owner of  
CERTAIN: Section no.....  
SITUATE: .....  
MEASURING: .....  
AS SHOWN AND  
MORE FULLY DESCRIBED: On sectional plan no.:.....  
IN THE SCHEME  
KNOWN AS: .....  
HELD UNDER: .....  
**AND WHEREAS** the said.....has caused a portion of the  
aforementioned section to be surveyed under a sectional plan of subdivision approved by the  
Director of Surveys and Mapping.

**AND WHEREAS**

.....  
has applied for issue to him of a Certificate of Registered Sectional Title in respect of such  
portion;  
**NOW THEREFORE**, I, the Registrar of Deeds for Botswana at.....do hereby  
certify that the said:

.....  
( Full names, date of birth and marital status )  
His heirs, executors or assigns  
is the registered owner of:  
CERTAIN: Section no.....  
SITUATE: .....  
MEASURING: .....  
AS SHOWN AND  
MORE FULLY  
DESCRIBED: Sectional Plan no.....  
IN THE SCHEME  
KNOWN AS: .....  
SUBJECT TO: .....  
AND THAT by virtue of these presents, the said

.....  
( Full names, date of birth and marital status )  
His Heirs, Executors or Assigns is now and henceforth shall be entitled thereto conformably to  
local custom, the state, however reserving its rights.

**IN WITNESS WHEREOF**, I, the said Registrar have subscribed to these presents and have  
caused the seal of office to be affixed thereto.

**THUS DONE AND EXECUTED** at the office of the Registrar of Deeds for Botswana at  
Gaborone on this.....day of.....in the Year of Our Lord, Two  
Thousand and.....(20.....)

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form O  
CERTIFICATE OF REGISTERED SECTIONAL TITLE IN TERMS OF SECTION 25(5)**

**OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**  
(regulation 19)

Prepared by me

.....  
Conveyancer

**WHEREAS** .....

(Full names, date of birth and marital status)

is the registered owner of

CERTAIN: Section No.....

SITUATE: .....

MEASURING: .....

AS SHOWN AND

MORE FULLY DESCRIBED: On sectional plan no.: .....

IN THE SCHEME

KNOWN AS: .....

HELD UNDER: .....

**AND WHEREAS** the said.....has caused a portion of the aforementioned section to be surveyed under a sectional plan of consolidation approved by the Director of Surveys and Mapping.

**AND WHEREAS**

.....  
has applied for issue to him of a Certificate of Registered Sectional Title in respect of such portion;

**NOW THEREFORE, I**, the Registrar of Deeds for Botswana at.....do hereby certify that the said:

.....  
(Full names, date of birth and marital status )

His heirs, executors or assigns

is the registered owner of:

CERTAIN Section no.....

SITUATE: .....

MEASURING: .....

AS SHOWN AND

MORE FULLY

DESCRIBED: Sectional Plan no.....

IN THE SCHEME

KNOWN AS: .....

SUBJECT TO: .....

**AND THAT** by virtue of these presents, the said

.....  
(Full names, date of birth and marital status)

His Heirs, Executors or Assigns is now and henceforth shall be entitled thereto conformably to local custom, the state, however reserving its rights.

**IN WITNESS WHEREOF**, I, the said Registrar have subscribed to these presents and have caused the seal of office to be affixed thereto.

**THUS DONE AND EXECUTED** at the office of Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the Year of Our Lord, Two Thousand and.....(20.....)

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

**Form P**  
**CERTIFICATE OF REGISTERED SECTIONAL TITLE UNDER**  
**SECTION 27(12)(c) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**

(regulation 19(3)(b))

Prepared by me

.....  
Conveyancer

**WHEREAS**.....has made application for the extension of section No.....as shown and more fully described on sectional plan No. DSM.....in the scheme known as.....

In respect of the land and building or buildings situate at <sup>xxv\*</sup>.....  
And held under <sup>xxvi\*\*</sup>.....in accordance with a plan of subdivision;

**AND WHEREAS** the sectional plan of the extension has been registered by me as Sectional Plan No. DSM.....

**NOW THEREFORE**, I, Registrar of Deeds at....., do hereby certify that .....aforesaid is the registered owner of a unit consisting of -

- (a) Section No....., as shown and more fully described on the aforesaid sectional plan, in the scheme known as.....  
in respect of the land and building or buildings situate at <sup>xxvii\*</sup>.....  
.....of which section, the floor area, according to the said sectional plan is.....square metres in extent; and
- (b) an undivided share in the common property in the scheme apportioned to the said section in accordance with the participation quota as endorsed on the said sectional plan.
- (c) Ownership of the said unit is subject to the conditions contained in the schedule filed with the sectional plan.  
The unit is subject to or shall benefit by-
  - (i) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions as referred to in section 12(3)(b) and the servitudes referred to in section 32 of the Sectional Titles Act, and
  - (ii) any alterations to the building or buildings or to a section or to the common property shown on the said sectional plan.

**THUS DONE AND EXECUTED** at the Office of the Registrar of Deeds for Botswana at Gaborone on this.....day of.....in the year of Our Lord Two Thousand and.....(20.....)

In my presence

.....  
**REGISTRAR OF DEEDS**  
Registered in the Register  
of.....  
at Gaborone on the above date

.....  
**q.q. HIS PRINCIPAL**

**Form Q**

**APPLICATION FOR REGISTRATION OF SECTIONAL PLAN OF EXTENSION OF COMMON PROPERTY UNDER SECTION 28(3) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**

(regulation 20)

To: .....  
.....  
.....

(State name and address of local authority)

**APPLICATION FOR REGISTRATION OF SECTIONAL PLAN OF EXTENSION OF COMMON PROPERTY UNDER SECTION 28(3) OF THE SECTIONAL TITLES ACT (No. 7 of 1999)**

I/We.....

.....  
the undersigned trustees of the body corporate of the scheme known as.....  
No.....situate

at <sup>xxviii\*</sup>.....,



do hereby apply for extension of the common property by the addition thereto of the land described as

CERTAIN : Piece of land being Lot.....  
SITUATE: In the.....Administrative District  
MEASURING : .....m<sup>2</sup> (.....square metres)  
WHICH PROPERTY: Was held under Certificate of Registered Title  
No.....dated.....and made in favour  
of the seller

to provide facilities and amenities for its members.

<sup>xxix\*\*</sup> The application is accompanied by the following documents:

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

.....  
Trustee Trustee

.....  
Date

Notes: ++State title description

**Form R**  
**NOTIFICATION OF DAMAGE OR DESTRUCTION IN TERMS OF SECTION 52(1) UNDER**  
**THE**  
**SECTIONAL TITLES ACT (No. 7 of 1999)**  
*(regulation 22)*

To : The Registrar of Deeds

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

**NOTIFICATION OF DAMAGE OR DESTRUCTION IN TERMS OF SECTION 52(1) UNDER**  
**THE SECTIONAL TITLES ACT (No. 7 of 1999)**

We,.....and.....

.....  
Trustees of the Body Corporate of the scheme known as.....  
No....., hereby give notice that in terms of section 51 of the above mentioned Act,  
the building or buildings have been damaged or are deemed to have been destroyed as  
contemplated in section 51(1) of the Act, on account of.....

.....  
*(State why building or buildings are damaged or are deemed to have been destroyed),*  
and that the owners have by a unanimous resolution/order of the Court, <sup>xxx\*</sup> been authorised to  
rebuild or reinstate in whole /or in part, the building or buildings <sup>xxxi\*</sup> and to transfer the interest  
of owners whose sections have been wholly or partially destroyed to the other owners.

The following documents are attached :

A copy of the unanimous resolution, certified by us/a copy of the order of the court certified by  
the Registrar of the Court <sup>xxxii\*</sup>

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

.....  
Trustee  
Postal Address:

.....

.....  
Trustee  
Postal Address:

.....  
.....

.....  
Date

**Form S**  
**SECTIONAL TITLE MORTGAGE BOND**  
(regulation 23)

Prepared by me  
.....  
Conveyancer

**SECTIONAL TITLE MORTGAGE BOND**  
**BY VIRTUE OF A POWER OF ATTORNEY**  
**KNOW ALL MEN WHOM IT MAY CONCERN**

**THAT** .....appeared before me, the Registrar of Deeds for Botswana at Gaborone, he, the appearer being duly authorised thereto by a Power of Attorney granted to him by

.....  
(full names, date of birth and marital status)  
hereinafter called "the mortgagor"

dated.....day of.....20....., and signed at.....  
duly witnessed according to law, which Power of Attorney was exhibited to me this day.

**AND** the said Appearer acknowledged and declared the said

.....  
(full names, date of birth and marital status)

to be truly and lawfully indebted and held and firmly bound unto and on behalf of

.....  
(the mortgagee)

its order or assigns (herein referred to as "the mortgagee/said bank") in the sum of

.....  
(sum in words and figures)

arising from the causes aftermentioned, to be paid to the said Bank/Mortgagee its representatives, order or assigns in the manner hereinafter mentioned, renouncing therefore all benefit from the legal exceptions *non numeratae pecuniae, non causa debiti, error calculi*, revision of accounts, no value received, *ordinis sue execussionis et divisionis, de duobus vel pluribus reis debendi* and all other exceptions which might or could be taken at law or in equity to the payment of the aforesaid sum or any part thereof with the force and effect of which exceptions the Appearer declared the mortgagor to be fully acquainted;

**AND** for securing the due payment of the said sum or any portion thereof together with all interest which may become due thereon reckoned as herein set forth, as also the payment of any sum or sums of money which shall or may be disbursed by the said Bank/Mortgagee in respect of premiums or insurance, stand licences, Government and municipal and other rates and taxes and any interest thereon respectively, as also of any costs and charges incurred by the said Bank/Mortgagee in having this bond prepared and registered and in suing for the recovery of the said sum or any portion thereof - such costs, charges and disbursements in so far as they are not preferent being hereby secured

as preferent to the additional extent of.....  
(additional sum in words & figures)

As security for the due payment of the capital, additional sum and interest and other sums of money claimable in terms of this bond, or that may at any time be or become due and owing to the mortgagee, arising from any cause whatsoever, and for the due performance of the conditions of this bond, the Appearer q.q binds as a (**first/second** etc) mortgage bond the undermentioned property:

CERTAIN: Unit Consisting of section no.....

SITUATE: .....  
 MEASURING: .....  
 AS SHOWN AND  
 MORE FULLY: On sectional plan no.....  
 DESCRIBED  
 IN THE SCHEME:  
 KNOWN AS: .....  
 HELD UNDER: .....

AND the Appear q.q. declared to bond the mortgager to the following conditions:  
 IN WITNESS WHEREOF I, the said Registrar, together with the Appearer q.q. have subscribed  
 to these presents, and have caused the seal of office to be affixed thereto  
 THUS DONE AND EXECUTED at the Office of the Registrar of Deeds for Botswana at  
 Gaborone on the.....day of.....in the year of our Lord Two  
 Thousand and...../.....(20.....).  
 In my presence

.....  
**REGISTRAR OF DEEDS**

.....  
**q.q. HIS PRINCIPAL**

## **SECTIONAL TITLES (CONDUCT) RULES**

*(under section 66)*

*(30th December, 2005)*

### ARRANGEMENT OF PARAGRAPHS

#### RULE

1. Citation
2. Keeping of animals
3. Disposal of refuse
4. Vehicles
5. Alteration to the common property
6. Outside appearance of sections
7. Signs
8. Littering
9. Laundry
10. Storage of inflammatory materials, etc.
11. Pests
12. Noise
13. Obligation of occupants
14. Penalty

S.I. 91, 2005.

#### **1. Citation**

These Rules may be cited as the Sectional Titles (Conduct) Rules.

#### **2. Keeping of animals**

(1) An owner or occupier of a section shall not, without the written consent of the trustees, keep any animal in his or her section or on the common property of the building.

(2) The trustees may grant the consent referred to in subrule (1) on such conditions as the trustees may determine.

(3) The trustees may withdraw the consent to permit an owner to keep an animal in his or her section in the event of any breach of a condition set by the trustees under subrule (2).

#### **3. Disposal of refuse**

An owner or occupier of a section shall-

- (a) maintain a receptacle for refuse disposal within his or her section or dispose of refuse in a part of the common property which is designated by the trustees in writing for

- refuse disposal;
- (b) ensure that before the refuse is placed in the receptacle, the refuse is securely wrapped, or in the case of a tin or a container, it is drained;
  - (c) for the purpose of having refuse collected, place the receptacle within the common property at the time designated by the trustees for refuse collection; and
  - (d) promptly return the refuse receptacle to his or her section or the other area referred to under paragraph (a) after the refuse is collected.

#### **4. Vehicles**

(1) No owner or occupier shall park or stand a vehicle on the common property or permit any vehicle to be parked or stand in the common property without the written consent of the trustees.

(2) The trustees may cause to be removed or towed away at the risk and expense of the owner of a vehicle, any vehicle parked, or standing on the common property without the trustees' consent.

(3) Where permission to park or stand a vehicle in the common property is granted, an owner or occupier of a section shall ensure that his or her „vehicle does not drip oil or drip brake fluid on to the common property or in any way deface the common property.

(4) No owner shall dismantle or effect major repairs to any vehicle on any portion of the common property, or on his or her exclusive portion.

#### **5. Alteration to the common property**

(1) An owner or occupier of a section shall not mark, paint, drive nails or screws into the common property or otherwise damage or alter any part of the property without the written consent of the trustees.

(2) Notwithstanding the provision of subrule (1), an owner or an authorised person may install-

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

#### **6. Outside appearance of sections**

The owner or occupier of a section used for residential purposes shall not place or do anything on any part of the common property, including balconies, patios, and gardens which, in the discretion of the trustees, is aesthetically displeasing or undesirable when viewed from the outside of the section.

#### **7. Signs**

No owner or occupier of a section, used for residential purposes, shall place any sign, notice, billboard or advertisement of any kind on any part of the common property or of a section, so as to be visible from the outside of the section, without the written consent of the trustees.

#### **8. Littering**

An owner or occupier of a section shall not throw any waste matter on the common property.

#### **9. Laundry**

An owner or occupier of a section shall not, without the written consent of the trustees, erect his or her own washing lines, or hang any washing or laundry on any part of the building or the common property so as to be visible from the outside of the building or from any other section.

#### **10. Storage of inflammatory materials, etc.**

An owner or occupier of a section shall not store any inflammatory substance in the building or any dangerous material which may increase the rate of the premium payable by the association on any insurance policy.

#### **11. Pests**

(1) An owner shall keep his or her section free of pests and to this end shall permit the trustees, or the managing agent and their duly authorised agent or employee, to enter upon the section from time to time for the purpose of inspecting the section and taking such action as may be reasonable in the eradication of pests.

(2) The cost of the inspection, eradication of the pests and the replacement of any section which may be damaged by the pests shall be borne by the owner of the section concerned.

## **12. Noise**

No owner or occupier shall-

- (a) cause a disturbance to other owners or occupiers in the building; or
- (b) make an unnecessary noise in a way that is likely to cause annoyance to other owners or occupiers in the building.

## **13. Obligation of occupants**

(1) An owner or occupier of a section shall comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any grant of rights of occupancy.

(2) An owner of a section shall ensure that a lessee, or an occupant, or a guest or a family member complies with these rules.

## **14. Penalty**

An owner or occupier who breaches any of these rules shall pay a fine to be determined by the members of the association during the annual general meeting.

# **SECTIONAL TITLES (MANAGEMENT) RULES**

*(under section 56(a))*

*(30th December, 2005)*

## **ARRANGEMENT OF RULES**

### **RULE**

#### **PART 1** *Preliminary*

- 1. Citation
- 2. First general meeting

#### **PART II** *Trustees*

- 3. Trustees of association
- 4. Tenure of office of trustees
- 5. Qualification
- 6. Nomination
- 7. Filling of vacancies
- 8. Resignation
- 9. Removal from office
- 10. Meeting of trustees
- 11. Quorum
- 12. Chairperson
- 13. Voting
- 14. Remuneration
- 15. Exemption from liability

#### **PART III** *Powers and duties of Trustees*

- 16. Powers of trustees
- 17. Duties of trustees

18. Validity of documents

PART IV  
*Finances*

- 19. Books of accounts
- 20. Annual financial estimates
- 21. Audit
- 22. Investment of funds
- 23. Managing agent
- 24. Grounds for revoking contract
- 25. Duties of a managing agent

PART V  
*General Meetings*

- 26. Notice of annual general meetings
- 27. Special general meetings
- 28. Quorum
- 29. Chairperson
- 30. Voting at general meetings
- 31. Proxies

PART VI  
*Duties of owners*

- 32. Contributions
- 33. Duties

PART VII  
*Miscellaneous*

- 34. Improvements
- 35. Minutes
- 36. Determination of disputes by arbitration
- 37. Obligation of an owner

S.I. 90, 2005.

**PART 1**  
***Preliminary (rules 1-2)***

**1. Citation**

These Rules may be cited as the Sectional Titles (Management) Rules.

**2. First general meeting**

(1) The first general meeting of members of the association shall be held within 60 days of the establishment of the association and at least seven days notice shall be given, in writing, of such meeting which shall be convened by the developer.

(2) The notice to convene the first general meeting shall be accompanied by a copy of the agenda which shall comprise the following-

- (a) the consideration, confirmation or variation of the insurance effected by the developer on behalf of the association;
- (b) the consideration, confirmation or variation of an itemized estimate of the anticipated income and expenses of the association for the ensuing financial year;
- (c) the consideration of financial statements relating to the management, control, and administration of the building from the date of establishment of the association to the date of notice of the first general meeting;
- (d) the taking of cession of a contract relating to the management, control and

- administration of the building and the common property and in respect of which the developer shall be obliged to submit such contract to the meeting;
- (e) the appointment of an auditor or an accounting officer;
  - (f) the election of trustees;
  - (g) the discussion of any restrictions that the members of the association may impose; and
  - (h) the determination of the *domicilium citandi et executandi* of the association, which address shall be situated within the area of jurisdiction of a local authority within which the association is situated.

(3) The developer, or his or her nominee shall act as a chairperson from the date of the establishment of the association until the first general meeting.

(4) The developer shall circulate a notice to all members of the association to nominate a trustee and nominations must be received by the developer not later than 48 hours before the first general meeting.

## **PART II**

### **Trustees (rules 3-15)**

#### **3. Trustees of association**

(1) With effect from the date of the formation of an association, all owners shall be trustees who shall hold office until the first general meeting of the members of the association in accordance with rule 2 whereupon they shall retire and be eligible for re-election.

(2) Members of the association in the first general meeting shall elect trustees to manage the association.

(3) The minimum number of trustees elected under subrule (2) shall be two.

#### **4. Tenure of office of trustees**

A trustee shall be elected for a year, and at the termination of such a period such trustee shall be eligible for re-election.

#### **5. Qualification**

A trustee or alternate trustee shall not be required to be an owner or the nominee of an owner who is a juristic person, in order to qualify for „office as a trustee, except that the majority of the trustees must be owners of sections or spouses of owners of sections.

#### **6. Nomination**

(1) Nominations by owners for the election of trustees at any annual general meeting shall be given in writing, accompanied by the written consent of the person nominated, so as to be received by the trustees at the *domicilium citandi et executandi* of the association not later than 48 hours before the general meeting.

(2) A trustee may be re-elected for another term, where the trustee is nominated for re-election at the general meeting and the trustee consents to the nomination.

#### **7. Filling of vacancies**

(1) Where a vacancy occurs before any general meeting, the trustees may appoint a qualified person to fill the vacancy.

(2) A person appointed in terms of subrule (1) shall hold office until the next general meeting, and at the general meeting the person shall be eligible for re-election.

(3) The trustees may appoint another person, whether or not the person is an owner of a unit, to act as an alternate trustee during the absence or inability of the trustee to act.

(4) An alternate trustee shall cease to hold office if the trustee whom the alternate replaces, ceases to be a trustee, or if the alternate's appointment is revoked by the trustees.

#### **8. Resignation**

A trustee shall resign as a trustee by notice in writing addressed to the association.

#### **9. Removal from office**

(1) A trustee may be removed from office by the association, if the trustee-

- (a) is of unsound mind;
- (b) surrenders his or her estate as insolvent, or is declared insolvent;

- (c) is convicted of an offence involving dishonesty; or
- (d) is removed from office by a resolution of the general meeting of the association.

(2) Where a trustee is to be removed from office under subrule (1)(d), the intention to remove the trustee from office must be specified in the notice convening the general meeting.

(3) Where a trustee is removed from office under subrule 1(d), the association may, at a general meeting, appoint another qualified person to be a trustee for the remaining term of the trustee who is being replaced.

#### **10. Meeting of trustees**

(1) A trustee may convene a meeting of the trustees by giving to the other trustees and all first mortgagees not less than seven days written notice of a meeting proposed by the trustee.

(2) The notice shall specify the reason for calling such a meeting.

(3) A shorter notice under subrule (1) as is reasonable in the circumstances may be given where there is an urgent matter to be attended to.

(4) An owner is entitled to attend and speak at any meeting of the trustees, but shall not be entitled to vote.

#### **11. Quorum**

(1) At a meeting of the trustees, two trustees shall constitute a quorum.

(2) Where the number of trustees falls below the number necessary to form a quorum, the remaining trustee may continue to act for the purpose of appointing or co-opting additional trustees to make up a quorum.

(3) Where at any meeting of trustees a quorum is not present within 30 minutes of the appointed time of the meeting, such meeting shall stand adjourned to the next business day at the same time, and the trustees then present at the subsequent meeting who shall not be less than two shall form a quorum.

#### **12. Chairperson**

(1) The trustees shall, at their first meeting after an annual general meeting, elect a chairperson from among their number who shall hold office until the end of the next annual general meeting of the members of the association.

(2) The chairperson shall have a casting vote except where there are only two trustees at a meeting.

(3) The trustees may at their meeting or the special meeting of the association, in respect of which notice of the intention to remove the chairperson has been given, remove the chairperson from office.

(4) Where a chairperson vacates the office as chairperson or no longer continues in office, the trustees shall elect another chairperson who shall hold office for the remainder of the period of the first chairperson.

(5) Where the chairperson vacates the chair during a meeting or is not present, or is for any other reason unable to preside at any meeting, the trustees present at the meeting shall choose another chairperson.

(6) A chairperson who serves the remaining term of a chairperson who has vacated office shall have the same right of voting.

#### **13. Voting**

(1) A decision of the meeting of the trustees shall be by majority vote, and, in the case of an equality of votes, the chairperson shall have a casting vote.

(2) A trustee shall be disqualified from voting in respect of any matter he or she has an interest in.

(3) A resolution in writing by all trustees for the time being present in Botswana and being not less than two, shall be as valid and effective as if it had been passed at a meeting of the trustees duly convened and held.

#### **14. Remuneration**



(1) Unless otherwise determined by a special resolution of the owners, trustees who are owners shall not be entitled to any remuneration in respect of their services.

(2) A trustee who is not an owner of a unit may be remunerated by the association at such rate as may be agreed by the trustee and the association.

(3) A trustee shall be reimbursed by the association for all disbursement and expenses incurred by the trustee in carrying out his or her duties.

(4) Where an alternate trustee is appointed by a trustee who is not an owner of a unit, the alternate trustee shall claim his or her remuneration, if any, from the trustee whom he or she replaced and not from the association, unless the association is instructed in writing, by the trustee, to pay a portion of the remuneration to the alternate trustee.

#### **15. Exemption from liability**

A trustee shall be indemnified by the association against any loss that may be incurred by the association by reason of any act done by the trustee in the discharge of his or her duties, unless such loss was caused by mala fide or gross negligence of the trustee.

### **PART III**

#### ***Powers and duties of trustees (rules 16-18)***

#### **16. Powers of trustees**

(1) Subject to any restriction imposed at a general meeting of the association, the powers of the trustees shall be to-

- (a) appoint on behalf of the association, such agents and employees as they consider appropriate;
- (b) change if necessary, the address constituting the *domicilium citandi et executandi* of the association, which address shall be situated within the area of jurisdiction of a local authority within which the association is situated; and
- (c) delegate to one or more of the trustees such of their powers and duties as they consider appropriate.

(2) An agent or employee under subrule (1)(a) may be responsible for the control, management and administration of the common property, or the exercise and performance of any of the powers and duties of the association.

(3) No change of the *domicilium citandi et executandi* shall be effective until written notification thereof is received by the Registrar of Deeds.

#### **17. Duties of trustees**

(1) At the first meeting of the trustees or within a reasonable time thereafter, the trustees shall-

- (a) insure the buildings and all improvements to the common property, to the full replacement value of the insured property against-
  - (i) fire, lightning and explosion,
  - (ii) riot, civil commotion, strikes, lockouts, labour disturbance or malicious persons acting on behalf of or in connection with any political organization,
  - (iii) storm, tempest and flood,
  - (iv) earthquake,
  - (v) aircraft, aerial devices or articles dropped there,
  - (vi) bursting or overflowing of water tanks, apparatus or pipes,
  - (vii) damage to the property by vehicles and animals, and
  - (viii) loss of occupation of the units by occupants as a result of the above risks;
- (b) insure the owners and the trustees against liability in respect of death, bodily injury or illness, caused by accidents in the common property;
- (c) levy and collect contributions from the members of the association;
- (d) be responsible for preparing schedules reflecting the estimates of the replacement value of the building, all improvements to the common property and value of each unit;
- (e) on the written request of a mortgagee and satisfactory proof thereof, record the cession

- by an owner to such mortgagee of the owner's interest in the application of the proceeds of the policies of insurance;
- (f) procure to such extent as may be determined by the members of the association in a general meeting, a fidelity guarantee account, in terms of which shall be refunded any loss of moneys belonging to the association or for which it is responsible, sustained as a result of any fraud or dishonesty committed by any insured person acting in the capacity of managing agent of the association;
  - (g) insure against such other risks as the owners of the units may by special resolution, determine; and
  - (h) keep a record of all rules in force, and, shall on the application of-
    - (i) an owner of a unit,
    - (ii) an occupant of a unit,
    - (iii) a prospective purchaser of a unit,
    - (iv) a holder of a sectional mortgage bond,
    - (v) the managing agent, and
    - (vi) the auditor or accounting officer,supply to such person a copy of the rules and may require the person to pay a charge for the rules.

#### **18. Validity of documents**

No document signed on behalf of the association shall be valid and binding unless the document is signed by a trustee and the managing agent.

### **PART IV**

#### ***Finances (rules 19-25)***

#### **19. Books of accounts**

(1) The trustees shall cause proper books of accounts and records to be kept so as to reflect the transactions and financial position of the association.

(2) The trustees shall keep a record of-

- (a) the assets and liabilities of the association;
- (b) all sums of money received and expended by the association and the matter in respect of which such receipt and expenditure occurred;
- (c) owners and registered mortgagees of units and of all other persons having real right in the units showing the address of every person so recorded; and
- (d) ledger accounts in respect of each owner.

(3) On the application of an owner, registered mortgagee or the managing agent, the trustees shall make all or any of the books of accounts and records available for inspection by the person who made the application.

(4) The trustees shall retain the books of accounts and records for a period of six years after completion of the transaction, acts or operations to which they relate, except that minute books shall be retained for so long as the scheme remains registered.

#### **20. Annual financial estimates**

(1) Before every annual general meeting, the trustees shall cause to be prepared itemized estimates of the anticipated income and expenses of the association during the ensuing financial year, which estimates shall be laid before the annual general meeting for consideration.

(2) The estimates of expenses referred to in subrule (1) shall include a reasonable provision for contingencies.

(3) The trustees shall cause to be prepared, and shall lay before every annual general meeting, for consideration, a financial statement in conformity with generally accepted accounting practices, which statement shall fairly present the state of affairs of the association and its finances and transactions as at the end of the financial year concerned.

(4) The trustees shall cause to be prepared and shall lay before every annual general

meeting a report signed by the chairperson reviewing the affairs of the association for the financial year.

(5) The trustees shall cause copies of the schedules, financial estimates, audited estimates and report to be delivered to each owner of a unit and to any mortgagee that has advised the association of its interest, at least 14 days before the date of the annual general meeting at which they are to be considered.

(6) Delivery under subrule (5) shall be deemed to have been effected if the documents referred to are sent by prepaid post addressed to the owner at his or her *domicilium citandi et executandi* and to any mortgagee at the address of such mortgagee as reflected in the records of the association.

## **21. Audit**

At the first general meeting and thereafter at every subsequent general meeting, the association shall appoint an auditor to hold office from the end of that meeting until the end of the next annual general meeting, except that where a scheme comprises less than 10 units, an accounting officer may be appointed to audit the finances of the association.

## **22. Investment of funds**

(1) The trustees shall cause all moneys received by the association to be deposited in the credit account of the association at a registered commercial bank or building society in the name of the association and, subject to any restriction imposed at a general meeting of the association, such moneys shall only be withdrawn for the purpose of payment of the expenses of the association.

(2) The trustees may authorize the managing agent to administer and operate the account referred to in subrule (1), except that where the agent is an estate agent, the trustees may authorize such managing agent to deposit moneys contemplated in subrule (1) in a trust account of the estate agent.

(3) Any funds not immediately required for disbursement may be invested in a savings account with any registered commercial bank or building society approved by the trustees, and any interest accruing from such moneys shall be used by the association for any lawful purposes.

## **23. Managing agent**

(1) The trustees may from time to time, if required by a registered mortgagee of the units or 50 per cent of the members of the association in a general meeting, appoint by a written contract, a managing agent to control, manage and administer the common property and to exercise such powers and duties as may be entrusted to the managing agent, including the power to collect levies and to appoint a supervisor.

(2) A managing agent shall be appointed for a year and unless the association notifies the managing agent to the contrary, such appointment will be automatically renewed every year.

(3) The trustee shall ensure that there is included in the contract of appointment of a managing agent a provision to the effect that if the managing agent is in breach of any provisions of the contract, or if he or she is guilty of conduct which would justify the termination of a contract between master and servant, the trustees may, without notice, cancel the contract of appointment, and the managing agent shall have no claim whatsoever against the association or any owners as a result of the cancellation.

(4) An owner or a mortgagee of a section in a building where the managing agent is in breach of any term of the contract, may require the trustees to cancel the managing agent's contract.

(5) An owner or mortgagee who requires the trustees to cancel the managing agent's contract in terms of subrule (4) shall furnish the trustees with such security as the trustees in their discretion may determine for the payment of and shall indemnify the trustees and the association against all costs and damages arising out of such cancellation, purported cancellation or litigation for which the trustees or the association might be liable up to the time

such owner notifies the trustees that he or she no longer requires the trustees to pursue the action.

#### **24. Grounds for revoking contract**

A managing agent's contract shall be revoked-

- (a) where the managing agent is a juristic person if-
  - (i) an order is made for a provisional liquidation of the company or is placed under judicial management, or
  - (ii) any of its directors or members is convicted of an offence involving an element of fraud or an element of dishonesty;
- (b) where the managing agent is a natural person if-
  - (i) the managing agent has applied for the surrender of his or her estate, or he or she is declared insolvent, or
  - (ii) that person is convicted of an offence involving an element of fraud or an element of dishonesty.

#### **25. Duties of a managing agent**

The managing agent shall keep full records of his or her administration and shall report to the association and to all holders of registered sectional mortgage bonds who have notified the association of their interest, all matters which in his or her opinion detrimentally affect the value of the common property or any section.

### **PART V**

#### **General Meetings (rules 26-31)**

#### **26. Notice of annual general meetings**

(1) An annual general meeting shall be held within four months of the end of each financial year and at least 14 days notice of such meeting shall be given to the members of the association in writing.

(2) The notice referred to in subrule (1) shall state the time and place within the area of jurisdiction of a local authority within which the association is situated, or such other place and time determined by special resolution of the members of the association, for the holding of the annual general meeting.

(3) The notice shall be addressed to-

- (a) all owners;
- (b) all holders of registered sectional mortgage bonds who have advised the association of their interest; and
- (c) the managing agent.

(4) The notice shall be accompanied by-

- (a) an estimate of the income and expenses of the association during the ensuing financial year;
- (b) a financial statement of the association; and
- (c) a report, signed by the chairperson of the trustees, reviewing the affairs of the association for the financial year.

(5) A holder of registered sectional mortgage bonds and the managing agent shall have the right to attend a general meeting and to speak at such meeting, but shall not be entitled to vote.

(6) Inadvertent omission to give notice to any person who is entitled to the notice or the non receipt of such notice by such person shall not invalidate the proceedings of any such meeting.

(7) A general meeting of the association may be called on a shorter notice than that specified in subrule (1) if it is agreed to by all persons entitled to attend.

#### **27. Special general meetings**

(1) The trustees may, whenever they think fit or upon a request in writing made by either owners entitled to 25 per cent of the total of the quotas of all sections or by any mortgagee

holding sectional mortgage bonds over not less than 25 per cent in number in units, convene a special general meeting.

(2) Where the trustees fail to call a special general meeting within 14 days of the request, the owners or mortgagees concerned shall be entitled to call the meeting.

(3) A special general meeting for the purpose of passing unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all members of the association, if in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of the matter to convene the meeting with such shorter period of notice.

## **28. Quorum**

(1) No business shall be transacted at any general meeting of the association unless there is a quorum.

(2) A quorum at a general meeting shall be-

- (a) the number of owners holding at least 50 per cent of the votes where there are 10 units or less, present in person or by proxy;
- (b) the number of owners holding at least 35 per cent of the votes where there are more than 10 units but not more than 50 units, present in person or by proxy;
- (c) the number of owners holding at least 20 per cent of the votes where there are more than 50 units, present in person or by proxy.

(3) Where at any general meeting a quorum is not present within 30 minutes of the appointed time of the meeting, such meeting shall stand adjourned to the same day in the next week at the same time and same place, and the owners or proxies present shall form a quorum.

## **29. Chairperson**

(1) The chairperson of the trustees shall preside at every general meeting of the association, unless otherwise resolved by members of the association at such meeting.

(2) Where the chairperson is not present within 15 minutes after the time appointed for holding the meeting, or if he or she is unwilling to act as chairperson, the members present shall elect one of their number to be a chairperson for the meeting.

## **30. Voting at general meetings**

(1) At any general meeting, a resolution put to vote of the meeting shall be decided on a show of hands, unless either prior to or on the declaration by the chairperson of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.

(2) Unless a poll is demanded, a declaration by the chairperson that a resolution has on the show of hands been carried, shall be conclusive evidence of the fact that a resolution is made.

(3) A poll, if demanded shall be taken by a show of hands or in such a manner as the chairperson thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

(4) A demand for a poll may be withdrawn.

(5) An owner is entitled to one vote or if the owner is a juristic person, its proxy is entitled to one vote.

(6) Except in cases where a special resolution or unanimous resolution is required under the Act, an owner shall not be entitled to vote at any general meeting if-

- (a) any contribution payable by him or her in respect of his or her section and his or her undivided share in the common property is not duly paid; or
- (b) he or she persisted in breach of the conduct rules referred to in section 38(3) of the Act and continued to do so notwithstanding any written warning by the trustees or the managing agent to refrain from breaching such rule.

(7) Where two or more people are entitled to exercise one vote jointly, that vote shall be exercised by one person or another person appointed by the people entitled to the vote as a proxy.

## **31. Proxies**

(1) A member of the association who is entitled to vote at any meeting of the association shall be entitled to appoint another person, whether a member of the association or not, as his or her proxy at any general meeting of the association, except that a proxy shall not be the managing agent or any employee of the association.

(2) A proxy shall be appointed in writing and the notice appointing the proxy shall be signed by the person appointing the proxy.

(3) A proxy is effective if the notice appointing a proxy is handed to the chairperson prior to the commencement of the meeting, except where a proxy is created and contained in a registered sectional mortgage bond and the sectional mortgage bond is produced at the meeting.

## **PART VI**

### ***Duties of an owner (rules 32-33)***

#### **32. Contributions**

(1) An owner shall pay a contribution that is in accordance with the participation quota attaching to his or her section.

(2) At every annual general meeting the association shall determine the amount estimated to be required to be levied upon owners during the ensuing financial year.

(3) The trustees shall, within 14 days after each annual general meeting, advise each owner in writing, the amount that the owner is to pay in the ensuing financial year.

(4) The trustees may from time to time, when necessary, make special levies upon the owners for the purpose of satisfying a judgment debt of the association.

(5) An owner shall be liable for and pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the association in obtaining the recovery of arrears levies owed by such owner to the association.

(6) The trustees shall be entitled to charge interest on arrears payable by the owner at such rate as from time to time the trustees may determine.

#### **33. Duties**

An owner shall not-

- (a) use his or her section of the building or any part of the common property, or permit it to be used in such manner as shall be injurious to the reputation of the building;
- (b) make alteration to his or her section of the building which is likely to impair the stability of the building or the use of the enjoyment of other section of the building; or
- (c) make any improvement to his or her section without the written consent of the trustees.

(2) An owner shall maintain the hot water installation which serves his or her section.

(3) Where an owner fails to repair or maintain-

- (a) his or her section in a state of good repair; or
- (b) adequately any area of the common property allocated for his or her exclusive use,

and any such failure persists for a period of 30 days after the giving of written notice to repair the property by the trustees or the managing agent, the association shall be entitled to repair the property and to recover the reasonable cost of doing so from the owner.

## **PART VII**

### ***Miscellaneous (rules 34-37)***

#### **34. Improvements**

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

(2) Where the trustees wish to effect improvements which are not of a luxurious nature, the trustees shall give 30 days written notice of such intention to all owners.

(3) The notice issued under subrule (2) shall provide details of the improvements as to-

- (a) the costs of the improvements;
- (b) the manner in which the improvements are to be financed;
- (c) the effect of the improvement on the levy paid by an owner; or



(d) the need and desirability of the improvements.

(4) The trustees shall, at the written request of any owner convene a special general meeting to deliberate on the proposals contained in the notice to effect non luxurious improvements.

(5) When the meeting referred to under subrule (4) is convened, the owners may veto, amend or approve the proposal by way of a special resolution.

(6) Notwithstanding the provisions of subrule (4) and subrule (5) , the trustees may, if required in writing by a majority of owners, procure the installation and maintenance of separate meters to record the consumption of electricity, or water in respect of each individual section and the common property.

### **35. Minutes**

(1) The trustees shall keep minutes of-

(a) the proceedings of the trustees meetings; and

(b) all meetings of the association.

(2) The minute book of the association shall contain a record of every resolution of the association.

(3) The trustees shall, on the written application of any owner or registered mortgagee of a unit, make available for inspection by such an owner or mortgagee the minute book.

### **36. Determination of disputes by arbitration**

(1) Any dispute between the association and an owner, or between owners, relating to these rules, save where an interdict or any form of urgent relief is required from a court, shall be determined in terms of this rule.

(2) Where a dispute arises, the aggrieved party shall notify the other interested party in writing and copies of such notification shall be served on the trustees and the managing agent.

(3) Where a dispute or complaint is not resolved within 14 days of the notice referred to under subrule (2) , either of the parties may demand that the dispute be referred to arbitration.

(4) The parties to the dispute shall jointly appoint an independent and qualified arbitrator.

(5) Where the parties can not agree to an arbitrator, the Registrar of Deeds shall upon written request by the parties and subject to the payment of a fee, in writing appoint an arbitrator within seven days after he or she has been required to make the appointment.

(6) Arbitration shall be held informally or otherwise as the arbitrator may determine.

(7) The arbitrator shall have the right to demand that the party demanding the arbitration furnish the arbitrator with security for the payment of the cost of the arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with.

(8) Where possible the arbitration shall be concluded within 21 days after the matter has been referred to arbitration or security for costs has been furnished.

(9) The arbitrator shall make his or her award within seven days from the date of the completion of the arbitration.

(10) The arbitrator may determine that the cost of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he or she may determine.

(11) The decision of the arbitrator is binding and may be made an order of the High Court upon an application by a party affected by the arbitration.

### **37. Obligation of an owner**

(1) An owner or occupier of a section is obliged to comply with these Rules, notwithstanding any provision to the contrary contained in any lease or any grant of rights of occupancy.

(2) An owner of a section shall ensure that a lessee, or an occupant, or a guest or a family member complies with these Rules.

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<sup>i</sup> Delete whichever is not applicable

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- <sup>ii</sup> Delete whichever is not applicable
  - <sup>iii</sup> Delete whichever is not applicable
  - <sup>iv</sup> Delete whichever is not applicable
  - <sup>v</sup> Delete whichever is not applicable
  - <sup>vi</sup> Delete whichever is not applicable
  - <sup>vii</sup> State name of city / township and local authority
  - <sup>viii</sup> Delete whichever is not applicable
  - <sup>ix</sup> Delete whichever is not applicable
  - <sup>x</sup> Delete whichever is not applicable
  - <sup>xi</sup> State which rights i.e. section 27(1)(a), 9(b), or (c) are reserved
  - <sup>xii</sup> State name of township/suburb and local authority
  - <sup>xiii</sup> State which rights i.e. section 27 (1) (a), (b), or (c) are reserved
  - <sup>xiv</sup> State name of city/township and local authority
  - <sup>xv</sup> Delete whichever is not applicable
  - <sup>xvi</sup> Delete whichever is not applicable
  - <sup>xvii</sup> Disclose each type of exclusive use area separately
  - <sup>xviii</sup> Disclose name of city/township and local authority
  - <sup>xix</sup> delete whichever is inapplicable
  - <sup>xx</sup> delete whichever is inapplicable
  - <sup>xxi</sup> state type of sectional title deed(s) and the number(s) thereof
  - <sup>xxii</sup> to be adopted for extension of section and/or common property
  - <sup>xxiii</sup> insert name of city/township and local authority
  - <sup>xxiv</sup> delete whichever is inapplicable
  - <sup>xxv</sup> State name of city/township and local authority
  - <sup>xxvi</sup> State type of sectional title deed(s) and number(s) thereof
  - <sup>xxvii</sup> State name of city/township and local authority
  - <sup>xxviii</sup> State name of city/township or local authority
  - <sup>xxix</sup> State the documents referred to in regulation 3 (2)
  - <sup>xxx</sup> Delete whichever is inapplicable
  - <sup>xxxi</sup> Delete whichever is inapplicable
  - <sup>xxxii</sup> Delete whichever is inapplicable