

(22 November 1996 – to date)

COMMUNAL PROPERTY ASSOCIATIONS ACT 28 OF 1996

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REGULATIONS IN TERMS OF THE COMMUNAL PROPERTY ASSOCIATIONS ACT, 1996 (ACT No. 28 OF 1996)

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Commencement date: 22 November 1996

I, Derek Andre Hanekom, Minister of Land Affairs, under the powers vested in me by section 18 of the Communal Property Associations Act, 1996 (Act No. 28 of 1996), hereby make the regulations contained in the Schedule hereto.

D.A. HANEKOM

Minister of Land Affairs

SCHEDULE

REGULATIONS IN TERMS OF THE COMMUNAL PROPERTY ASSOCIATIONS ACT

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Prepared by:

1. Definitions

In these regulations a word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates—

"the Act" means the Communal Property Associations Act, 1996 (Act No. 28 of 1996);

"communal property bodies" means provisional associations contemplated in section 5 and associations contemplated in section 8 and similar entities contemplated in section 2 of the Act, or any combination thereof, and "bodies" has a corresponding meaning.

2. Registration of a communal property body

- (1) The Registration Officer must register a communal property body as a provisional association, an association or a similar entity in the manner set out in these regulations when the Director-General notifies him/her that he/she has consented to such registration in terms of section 5(3) or section 8(3) or that the Minister has made certain provisions of the Act applicable to a similar entity in terms of section 2(3).
- (2) When registering such a body the Registration Officer must—
 - (a) record the information and file the documents which are specified in regulation 3 for safekeeping in the Register of Communal Property Associations, which are applicable to the body being registered; and
 - (b) issue a registration certificate substantially in the form of Form A in the Schedule to these regulations in duplicate, one of which he/she must retain on record and the other which he/she must forward to the body concerned.

3. Register to be kept by the Registration Officer

- (1) The Registration Officer must keep a register known as the Register of Communal Property Associations which shall be a public record.
- (2) The register must consist of computer, written or any other records or a combination of them and must include an index, files and other components which the Registration Officer may consider necessary or advisable for the implementation of the Act and these regulations.
- (3) The register must contain the information relating to all registered bodies which are specified by the Act and these regulations or which are necessary for the implementation of their provisions, including—
 - (a) an index containing (in respect of each separate body which is registered)—

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- (i) a registration number consisting of the letters "CPA", followed by an oblique or slash "/", followed by a two-digit number representing the last two digits of the year of registration, followed by an oblique or slash "/", followed by a four-digit sequential number representing the separate number allocated to each consecutive body which is registered, followed by an oblique or slash "/", followed by a letter which must be "P" in the case of a provisional association and "A" in the case of an association and "S" in the case of a similar entity;
 - (ii) the name of the body which is registered and its address and that of its agent or representative (if any);
 - (iii) a similar entity's number (if any) which was allocated to it by the Registrar of Companies, the Master of the Supreme Court or any other official in terms of any other law;
 - (iv) the date of registration of the body in terms of regulation 2;
 - (v) the date of deregistration of a registered body;
 - (vi) a reference to the number/s allocated by the Department of Land Affairs to any file/s it may have concerning the body or the community it represents;
 - (vii) in the case of a similar entity, a list of the sections and subsections of the Act which are applicable to the body concerned, and a reference to any qualifications or conditions imposed by the Minister in terms of section 2(3) of the Act;
 - (viii) the title deed number and a brief description of any land to which the registered body has acquired a right;
 - (ix) the date/s on which any amendment/s of the body's constitution were accepted by the Director-General;
- (b) a file in respect of each separate body which is registered bearing the registration number referred to in regulation 3(a)(i) and the body's name and containing the following documents—
- (i) the duplicate registration certificate;
 - (ii) the Director-General's consent to the registration of the body concerned or, if that body is a separate entity, a copy of the *Gazette* in which the notice referred to in section 2(3) of the Act appeared;
 - (iii) the constitution which was adopted by or imposed on the body concerned and which has been endorsed by the Director-General as having been accepted by him/her or as having

been approved by the Minister as stipulated in section 5(5) of the Act, together with the date of such acceptance or approval;

- (iv) any amendment to the body's constitution which has been adopted by the body concerned and which has been endorsed by the Director-General as having been accepted by him/her, together with the date of such acceptance;
- (v) a certified copy of a similar entity's founding document or constitution as a trust, other association or company;
- (vi) a certified copy of a similar entity's certificate of registration as a trust, association or company including a Certificate to Commence Business in the case of a company;
- (vii) any information, reports, returns and other documents which the registered body is required by the Act and these regulations to lodge with the Director-General or the Registration Officer.

4. Access to information and copies of documents

A member of the public is entitled to information retained in the Register of Communal Property Associations and of copies of documents on file upon payment of a fee which is payable in uncanceled revenue stamps and which is the total of R5,00 plus R0,20 per page of any document copied, whether certified or not.

5. Adoption of constitution

- (1) The notice by a community to the Director-General of its intention to adopt a constitution must be in writing and be accompanied by the proposed constitution and information demonstrating that the community is a community which is contemplated in section 2. The notice may make proposals as to how a meeting or meetings should be convened for the adoption of the constitution.
- (2) After consideration of the proposed constitution the Director-General must determine—
 - (i) the date/s and time/s of the meeting/s at which a constitution is to be proposed for adoption;
 - (ii) the method/s to be used for giving notice to the members of the community concerned of such meeting/s;
 - (iii) the venue for the meeting/s; and
 - (iv) the agenda for and the procedure (including the voting procedure) to be followed at such meeting,

after consultation with the committee or representative of the community and having regard to the particular circumstances of the community.

- (3) The Director-General may determine that a notice of a meeting must be given using one or more methods and may stipulate any lawful method that he/she considers may be effective under the circumstances.
- (4) When the Director-General appoints an authorised officer referred to in section 7(2) he/she must notify the community of such officer's name and address.
- (5) The community concerned must by no later than *[sic]* seven days before the applicable meeting provide the authorised officer with—
 - (a) a list of the names and where readily available the identity numbers of all members of the community: Provided that where it is not reasonably possible to provide the names of all the members, the community shall provide the principles and procedures to be applied in determining membership of the community; and
 - (b) proof to the authorised officer's reasonable satisfaction that the notice/s of the applicable meeting have been given as determined by the Director-General.
- (6) The authorised officer's report to the Director-General must include—
 - (a) the information and documents referred to in subregulation (5); and
 - (b) a copy of the minutes of the meeting including the community's resolution and, if the constitution was adopted at the meeting, a copy of such constitution.

6. Duty to provide information

- (1) A communal body must on request provide the Director-General and the Registration Officer respectively with all the information and documents to which each of them is entitled, or which each is required to possess in terms of the Act and these regulations, including the information and documents that are reasonably necessary *[sic]* for the purposes of the Act and Regulations.
- (2) The Registration Officer may refuse to register a communal body until he/she has received all the required information and documents concerning such body.

7. Application for exemption of land from laws

- (1) An application for the Minister to determine that one or more pieces of land shall be exempted from the provisions of one or more laws referred to in section 8 (8) must be in writing and directed to the Director-General and must include or be accompanied by—
 - (a) a copy of the title deed of the land;

- (b) a copy of the diagram of the land, or if the application relates to a portion only of the land, a diagram or sketch plan of such portion indicating its approximate location, boundaries and size;
 - (c) a sketch layout plan of the development intended to be carried out, showing the number and approximate sizes of sites to be created;
 - (d) an indication of the nearest existing township and its approximate distance from the land concerned;
 - (e) a description of the existing and the intended future use of the land concerned (whether developed or not);
 - (f) an indication of the services to be provided as part of the development and who will maintain them;
 - (g) written information regarding who will carry out and who will finance any intended development;
 - (h) such reasons or other information that may support the application.
- (2) The Director-General may, before submitting an application to the Minister for a decision, request the written comment of any provincial or local authority having jurisdiction over the land.

8. Documents and information to be furnished

A communal body must, annually and within two months of the date on which its body's Annual General Meeting is held, furnish the following information and documents to the Director-General—

- (a) the names and where readily available the identity numbers, and the addresses of the members of the body's governing body elected at the Annual General Meeting indicating what office (if any) is held by each of them;
- (b) the names and where readily available the identity numbers and the addresses of all new members whose names do not appear on the most recent membership list previously furnished to the Director-General;
- (c) copies of—
 - (i) the body's annual balance sheet or financial statements which have been independently verified as approved by the Director-General; and
 - (ii) the minutes of all general meetings of the members of the body which were held since the registration of the body or the previous Annual General Meeting, including the minutes of the last Annual General Meeting;

- (d) a list of all dealings in land or rights to land involving the body during the period since the registration of the body or the previous Annual General Meeting, which created, altered or extinguished any right to land held by the body itself or by any of its members;
- (e) any other information and documents required by the Director-General which he/she requires to enable him/her to carry out his/her duties in terms of the Act and these regulations.

9.

The list referred to in regulation 8(d) must in respect of each transaction identity—

- (a) the parties to the transaction;
- (b) the land affected by the transaction;
- (c) the right affected by the transaction;
- (d) the nature of the transaction; and
- (e) the reasons for the transaction.

10.

The Director-General may in a particular instance and on good cause shown to him/her extend the time for compliance with regulation 8 or waive compliance with some of or all the provisions of regulations 8 and 9.

11. Termination of membership

When a member's membership of a communal body is terminated for any reason the body must provide the following information and documents to the Director-General—

- (a) the name and where readily available the identity number and the previous address and any forwarding address of the former member concerned;
- (b) the reason for such termination;
- (c) copies of any documents that are relevant to the termination;
- (d) details of any compensation paid or payable to the former member;
- (e) if the membership concerned was or is to be allocated to any other person/s in the place of the former member, the name and if readily available the identity number and the address of such other person and his/her relationship to the former member;
- (f) if a hearing was held to decide on such termination—

- (i) the date and venue of the hearing;
- (ii) who chaired and who attended the hearing;
- (iii) whether the former member was present and/or represented;
- (iv) the charges (if any) put to the former member and the finding on each charge;
- (v) what other sanctions (if any) were considered; and
- (g) any other relevant information or documents requested by the Director-General.

12. Appeals to the Minister

An appeal to the Minister against a decision of Director-General must be in writing and include—

- (a) a copy of the relevant decision if it is in writing;
- (b) a description of the decision sufficient to identity it, including the date, place and content of the decision and, if known, the names of the persons by and to whom it was conveyed, if the decision was verbal;
- (c) copies of any documents which are relevant to the appeal;
- (d) the reasons for the appeal;
- (e) the appellant's contention as to what the decision should have been;
- (f) proof by way of affidavit or otherwise of the date on which the appellant became aware of the relevant decision; and
- (g) the appellant's postal address.

13.

The original must be lodged with the Minister and a copy with the Director-General within 90 calendar days of the date on which the appellant became or should reasonably have become aware of the relevant decision.

14.

The Director-General must lodge his/her written answer to the appeal with the Minister and post a copy thereof to the appellant within 30 calendar days of the date on which the appeal was lodged.

15.

The appellant may within 14 calendar days after receipt by him/her of the Director-General's answer lodge a reply thereto with the Minister and with the Director-General.

16.

The Minister may—

- (a) at any time request either party to furnish him/her and the other party with such further information and documents that he/she considers necessary for the finalisation of the appeal, within a time to be determined by him/her; and
- (b) decide the appeal either with or without hearing oral representations by both parties as he/she may decide,

and must convey his/her decision to both parties.

FORM A

REGISTRATION CERTIFICATE IN TERMS OF THE COMMUNAL PROPERTY ASSOCIATION ACT, 1996

REGISTRATION No.: CPA / /

I, hereby certify that (full name of body)
.....
(trust/company registration no. if any).....
has today been registered as a—

- * provisional communal property association, in terms of section 5 (3)
or
- * communal property association, in terms of section 8 (3)
or
- * similar entity, in terms of section 2 (3), read with sections 2 (4) and 8 (3), of the Communal Property Associations Act, 1996 (Act No. 28 of 1996)
- * and being a similar entity, to which the provisions of the following sections and subsections of the said Act are applicable:

Sections
.....

- * subject to the following qualification/s or condition/s
.....
.....
.....
.....

Signed at Pretoria on this day of 19....

.....
Registration Officer

(C.P.S. SEAL)

- * Delete if not applicable.