

(22 March 2002 – to date)

## HOUSING CONSUMERS PROTECTION MEASURES ACT 95 OF 1998

*(Government Gazette 19418, dated 2 November 1998. Commencement date: 4 June 1999, unless otherwise indicated [Proc. No. R70. Gazette No. 20122])*

### GENERAL REGULATIONS REGARDING HOUSING CONSUMER PROTECTION MEASURES

*Government Notice 354 in Government Gazette 23252 dated 22 March 2002. Commencement date:  
22 March 2002.*

The Minister of Housing has, after consultation with the National Home Builders Registration Council, under sections 1, 7(2) and 27 of the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998), made the regulations in the Schedule.

### SCHEDULE

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#### 1. Definitions

- (1) In these rules any word or expression to which a meaning has been assigned in the Act shall bear that meaning, and unless the context otherwise indicates -

"**the Act**" means the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998).

A "**housing development project**" means, for the purposes of the Act and these regulations, any project or phase of a project approved by a PHDB from the date of commencement of section 18 (3) of the Act.

A "**deposit**" is defined as an amount paid by the housing consumer no greater than the amount of the full subsidy itself.

- (2) For the purposes of the definition of "home" in section 14(2) of the Act, "home" means a home the acquisition of which, except in respect of any deposit payable, will be financed solely from the proceeds of a state housing subsidy and forming part of a housing development project.

- (3) For the purposes of these Regulations, the definition of "home builder" shall include a "developer" or an "institution" in terms of Part 3 of the National Housing Code.

## **2. Maximum amount payable from fund**

- (1) The maximum amount that may be expended from the fund, established in terms of section 15(4) of the Act, in respect of a project enrolled in terms of section 14(2) of the Act is:
- (a) in respect of any home, the state housing subsidy draw relating to the top structure current at the time of project enrolment;
  - (b) in respect of all homes forming part of the housing development project as a whole, a sum of three thousand rand per home enrolled at the date of occupation up to a maximum value of five million rand.
- (2) The maximum amount that may be expended may include –
- (a) any professional fee incurred by the Council in investigating and determining a cost effective method of rectification;
  - (b) the necessary cost for rectification of any major structural defect and for making good any finishes necessarily damaged by the rectification process; and
  - (c) reasonable accommodation costs where, in the opinion of the Council, it would be unreasonable for a housing consumer to remain in occupation of the property due to the extensive nature of the remedial works, prescribed at maximum daily rates by the Council up to maximum of five percent of the state housing subsidy draw relating to the top structure current at the date of project enrolment.

*(Publisher's note – Numbering as per the original Gazette)*

- (4) No amount shall be paid out of the fund in relation to –
- (a) any limitation or exclusion prescribed by the Minister in regulation 14 of the Minister's Regulations promulgated by Government Notice No. R1406 of 1999;
  - (b) consequential or economic loss of any kind or description whatsoever, including damages and penalties for and losses due to delay, breach of contract, or loss of rental income; and
  - (c) any costs, loss or liability for which compensation is covered under an insurance policy.

- (5) The Council may, in exceptional circumstances and at its sole discretion, instead of having a defect rectified, make a payment to the housing consumer in full and final settlement of any claim.