

**STBB's REFERENCE GUIDE TO THE SECTIONAL TITLES SCHEMES MANAGEMENT ACT  
For Managing Agents, Trustees, Owners and Property Practitioners**

*In this, the twenty-second set of notes for your STSMA Reference Guide, Regulation 6 of the Act is discussed.*

	<b><u>REGULATION 6 (RULES)</u></b>	<b><u>REFERENCES &amp; SEARCH WORDS</u></b>
<b>REG 6(1)</b>	<p>The Rules – as prescribed or as amended (in terms of section 10) - are the laws of and for the body corporate.</p> <p>Section 10 was discussed <a href="#">here</a>.</p>	Rules = law of and for the body corporate
<b>REG 6(2)</b>	<p>These Rules (referred to in section 10) are the Rules attached to the regulations as <a href="#">Annexure 1 (Management Rules)</a> and <a href="#">Annexure 2 (Conduct Rules)</a> respectively.</p>	<p>Where to find Rules - Annexure 1 (Management Rules) Annexure 2 (Conduct Rules)</p>
<b>REG 6(3)</b>	<p>When submitting an application for the opening of a new sectional title register, certain rules only may be amended; the others apply automatically.</p> <p>The regulation lists which these are, namely: a developer may</p> <p>(a) <b>substitute, amend or withdraw</b> Management Rules 5(2) and (3), 7, 8(1) and (2) and 12.</p> <p><i>(Rules 5(2) and (3) deal with the question of the appointment of trustees in schemes with 4 or less units and in schemes that have more than 4 units.</i></p> <p><i>Rule 7 deals with the nomination, election and replacement of trustees.</i></p> <p><i>Rule 8(1) and (2) deal with reimbursement of expenditure of trustees and disallows</i></p>	List of alterable rules on opening of a scheme

*remuneration.*

*Rule 12 deals with appointment, duties, etc of the chairperson of the body corporate.)*

and

- (b) **add** management rules that are not inconsistent with any other management rule that appears in Annexure 1.

But see also reg 6(4) below for an instance where **any management rule may be substituted.**

**REG 6(4)**

It is possible for a development managed by an umbrella association (usually a homeowners association (HOA)) to incorporate a sectional title scheme. In such instances, it is usual to see that the conditions that are made applicable to the sectional title scheme when it is opened, include mechanisms that make the scheme subject to the same (or similar) rules as apply to the larger HOA development.

Reg 6(4) thus determines that when a scheme is opened and the conditions relevant to the scheme (see section 11) contains a condition restricting transfer of a unit without the consent of the HOA – and the HOA’s constitution stipulates that-

- (a) all members of the body corporate and of the development scheme of which the unit forms part, must be members of that association; and
- (b) the functions and powers of the body corporate must be assigned to that association;

the developer may, when submitting an application for the opening of a sectional title register, **substitute any management rule** that appears in Annexure 1.

Scheme part of umbrella homeowners association

Exception - when any Annexure 1 Management Rule may be substituted

<p><b>REG 6(5)</b></p>	<p>Further to 6(4) above, regulation 6(5) confirms that if such an arrangement was in place when the Act commenced (i.e. on 7 October 2016), the management rules contained in Annexure 1 do not apply to that scheme.</p>	<p>Exception - when Annexure 1 Management Rules do not apply</p>
<p><b>REG 6(6)</b></p>	<p>The Management Rules (Annexure 1) may be added to, amended or repealed by unanimous resolution of the body corporate.</p> <p>Note however that no such addition, amendment or repeal may be made until such time as there are owners, other than the developer, of at least 30% of the units in the scheme.</p> <p>(Certain exceptions apply if the scheme which was established in terms of the first Sectional Titles Act, i.e. the 1971 Act.)</p>	<p>How and when Annexure 1 Management Rules may be added to or amended</p> <p>Unanimous resolution</p>

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