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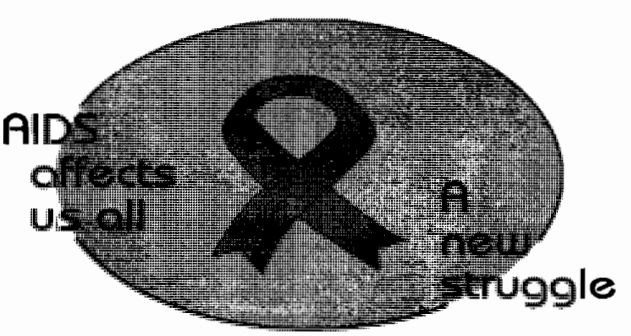

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DEPARTMENT OF HEALTH

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GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HOUSING
DEPARTEMENT VAN BEHUISING

No. R. 1406

1 December 1999

HOUSING CONSUMERS PROTECTION MEASURES ACT, 1998

GENERAL REGULATIONS REGARDING HOUSING CONSUMER PROTECTION MEASURES

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

Definitions

1.(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 -

"Agrément certificate" means a certificate confirming the acceptability of a non standardised design and the conditions pertaining thereto issued by the Board of Agrément South Africa;

"associate" means any person or body that exercises substantial ownership or management influence in respect of the home builder including the holding of shares or interests of not less than 20 percent of issued shares or total interest;

"Board of Agrément South Africa" means a body operating under the delegation of authority of the Minister of Public Works;

"Council's registered address" means Fernridge Office Park, 5 Hunter Street, Ferndale, Randburg;

"day" excludes any day falling within the building industry recess period;

"notify" means to serve as contemplated in section 24 of the Act;

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

(2) For the purposes of the definition of "home" in section 1 of the Act, "home" does not include -

(a) boarding houses, hostels, institutional facilities such as hospitals, prisons, orphanages and other welfare accommodation, time share accommodation, hotels or any residential structure which is constructed with less than 75 percent of the floor area designed for

residential purposes;

(b) any temporary residential structure, including a shack or caravan;

(c) any home constructed as contemplated in the exclusion paragraphs (i) and (ii) of the definition of "business of a home builder" in section 1 of the Act; and

(d) until the commencement of section 14(2) of the Act, a home forming part of a project, contemplated in section 5(4)(c) of the Act.

(3) For the purposes of a claim in terms of section 17 of the Act, "home" -

(a) includes -

(i) the private drainage system from the structure up to the municipal connection or the cess pit connection;

(ii) any garage or storeroom;

(iii) any permanent outbuilding designed for residential purposes or for a purpose ancillary to residential purposes; and

(iv) any retaining wall,

necessary to ensure the structural integrity of the home, constructed or acquired under the agreement between the housing consumer and the home builder;

(b) includes, in the case of a sectional title unit, the common property in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986); and

(c) does not include any fence, pre-cast fencing, temporary structure, swimming pool, tennis

court, lift, mechanical ventilation or air conditioning system, household appliance, stable or workshop.

(4) For the purposes of the category of homes for enrolment in terms of section 14(1) of the Act, "home" includes all homes as defined in the Act or these Regulations, but does not include a home forming part of a project, contemplated in section 5(4)(c) of the Act.

(5) For the purposes of the definition of "business of a home builder" in section 1 of the Act, the business of a home builder includes the activity conducted by a legal entity of buying land and developing such land and constructing homes on such land and the subsequent sale of the legal entity owning the land rather than the land itself.

NHBRC technical requirements for structural strength and stability

2.(1) A home and any structural element or component thereof must be designed and constructed to provide strength and stability for the lifetime of the structure in accordance with accepted standards of good practice at the time of design and construction .

(2) Foundations must be designed and constructed to transmit loads from super- structures to soil horizons safely and without causing excessive movement or distress in the elements which they support.

(3) Foundations must be designed and constructed to resist differential displacement and to prevent the passage of moisture to the interior of the home.

(4) Floors and stairways must be designed and constructed to safely carry their own dead loads in addition to any live loads which they are likely to be subjected, without undue deformation and distress.

(5) Walls must be designed and constructed to safely withstand any load to which they are likely to be subjected without impairing weather tightness and without undue deformation and distress.

(6) Roofs and their components must be designed and constructed to safely resist any forces to which they

are likely to be subjected and without the roof construction becoming detached from its respective supporting structure.

NHBRC technical requirements for serviceability

3.(1) Any home and any structural element or component thereof must be durable, resist water penetration and prevent condensation which may adversely affect fitness for habitation, and withstand any loads to which they are likely to be subjected without undue deflection, distortion or cracking over the lifetime of the structure.

(2) Walls must be designed and constructed to resist the penetration of water into the interior of homes.

(3) Roofs must be designed and constructed to resist rain penetration and to avoid the accumulation of rain water thereon.

NHBRC technical requirements for fire

4. The combustibility and fire resistance characteristics of all floors, walls, roofs and the ceiling assembly must be appropriate to the location and use of such elements.

NHBRC technical requirements for materials

5. Materials used in the construction of homes must be sufficiently durable and of a suitable quality for the purpose for which they are to be used.

NHBRC technical requirements for drainage

6. Drainage installations must be designed and constructed so that the installation is capable of carrying the hydraulic design load, of being easily maintained, and does not result in leakage which may detrimentally affect the structural integrity of a home.

NHBRC technical requirements for stormwater disposal

7. Suitable means, preferably of a fail-safe nature, must be provided for the control and disposal of stormwater in a manner which -

(a) does not result in soil erosion or flooding which may detrimentally affect the structural integrity of the home; and

(b) reduces the risk of stormwater entering the home.

Satisfying the NHBRC technical requirements for design

8. The NHBRC technical requirements prescribed in Regulations 2, 3, 4, 5, 6 and 7 must be regarded as having been complied with where a home builder has -

(a) complied with the guidelines prescribed by the Council under section 12(1)(b) of the Act; or

(b) obtained a rational design based on engineering principles in accordance with the relevant requirements determined by the Council under section 12(2) of the Act; or

(c) obtained Agrément certification in accordance with the relevant requirements determined by the Council under section 12(2) of the Act.

Satisfying the NHBRC technical requirements for construction

9. The NHBRC technical requirements prescribed in regulations 2, 3, 4, 5, 6 and 7 must be regarded as having been complied with where a home builder has -

(a) complied with the guidelines prescribed by the Council under section 12(1) of the Act; or

(b) has achieved the construction standards and specifications referred to in an applicable rational

design prepared by a competent person in terms of section 12(2) of the Act; or

(c) has complied with the relevant requirements for construction set out in an applicable Agrément certificate.

Compliance in respect of materials

10.(1) A home builder may be required by the Council to satisfy the Council that materials used or to be used by the home builder in the construction of a home comply with the requirements relating to materials and the guidelines in relation thereto prescribed by the Council under section 12(1)(b) of the Act, or the requirements specified by a competent person in terms of section 12(2) of the Act, or the relevant requirements set out in an applicable Agrément certificate.

(2) The tests which the Council may apply on materials are the relevant tests applied by the South African Bureau of Standards, as contemplated in the Standards Act, 1993 (Act No. 29 of 1993) or relevant industry based institutions, such as the Cement and Concrete Institute (an association incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973, with the registration number 05/11756/08), or the Council for Scientific and Industrial Research, as contemplated in the Scientific Research Council Act, 1988 (Act No. 46 of 1988).

(3) The Council may require a home builder, on demand, to make samples of materials and components available for testing.

(4) Any notice relating to the cancellation or suspension of the enrolment of a home as contemplated in section 14(4) of the Act, or for the recovery of any costs of any examination or test in terms of section 19(4)of the Act, must -

(a) state those aspects of such material or component thereof which do not comply with requirements;

(b) prohibit the home builder from using such material or component; and

(c) demand that the home builder remove and replace at the home builder's own cost any such materials or components that have been used or would have been used in the construction of the relevant home.

Terms and conditions for registration

11.(1) For the purpose of evaluating an application in terms of section 10 of the Act, the Council may have regard to the information set out in the application form prescribed by the Council.

(2) The Council may require additional information from the home builder or any other person and may conduct the investigations, that it may consider necessary to assess the application.

(3) The Council, or any persons contracted by it, must treat any financial information provided by an applicant as part of his application to the Council with the strictest confidence.

(4) Where the Council receives an application from a home builder, who in the opinion of the Council -

(a) has limited capital, fixed assets or active trading history; or

(b) appears not to have the ability to meet its obligations to housing consumers and to the Council,

the Council may require personal suretyships, indemnities and guarantees, as the case may be, as contemplated in section 10(5) of the Act from the home builder, the partners, directors, members, shareholders or trustees of the home builder or those of its associates.

(5) The Council may, where it receives an application from a home builder in respect of which there exists an associate, require security from such associate.

(6) The Council may undertake, within its discretion, a technical assessment of the home builder by means of -

(a) a technical interview to determine the ability of a home builder to meet and to comply with the guidelines set out in the Home Building Manual;

(b) undertaking site visits or inspections to examine homes or other forms of construction already completed or under construction by the home builder.

(7) The Council may require, as a precondition for registration -

(a) the satisfactory rectification of previous construction related problems; or

(b) the satisfactory resolution of financially related problems, such as the rescinding of court judgements.

(8) If the Council decides -

(a) to make the home builder's registration subject to conditions; or

(b) to amend, add to or cancel the conditions, to which a home builder's registration is already subject;

the Council must notify the home builder accordingly.

(9) A decision notified in terms of subregulation (8) takes effect -

(a) on receipt of written acceptance of any conditions from the home builder; or

(b) 30 days after it has been notified to the home builder, unless the home builder exercises its rights under section 10(9) of the Act, to make written representations to the Council.

(10) The Council may, where a home builder has been registered with conditions or provisionally -

(a) limit the number of homes a home builder may enroll;

(b) require the home builder to notify the inspectorate of key stages of construction determined by the Council in sufficient time to allow the Council to arrange for inspection at its discretion; and

(c) apply any other reasonable condition that the Council considers appropriate,

until the home builder is able to demonstrate its capacity to meet the obligations of a registered home builder.

(11) Where the Council has determined that a home builder meets the requirements of section 10 of the Act, the Council must issue a registration certificate to a home builder where it has received at its registered address -

(a) written acceptance of any conditions;

(b) any suretyships, indemnities or guarantees requested, duly signed and completed; and

(c) payment in respect of the registration fee.

(12) The registration of a home builder remains effective for one year.

(13) A home builder must immediately notify the Council if that home builder -

(a) changes its address registered with the Council, its office premises or telephone or telefax numbers;

(b) ceases trading or resolves to do so;

(c) is a sole trader and any person acquires a financial interest in the home builder;

(d) is in partnership and there is a change in the composition of the partnership;

(e) is a company and there is a change in the board of directors or any person acquires more than ten percent of the issued shares of the company;

(f) is a close corporation and there is a change in the membership of the close corporation or the membership interest holding;

(g) is a trust and there is any change in the composition of the board of trustees or the ultimate beneficiary; or

(h) is no longer in a position to meet its obligations under the Act.

(14) A notification in terms of subregulation (13) must include the full name, identity number and addresses of any person acquiring a financial interest as well as any other information that the Council may require.

(15) The Council may at any time of its own accord, or on information received, or at the request of the home builder, review the home builder's registration having regard to the home builder's performance as a home builder during the period of registration and any changes in the ownership of the home builder.

(16) The Council may, when acting in terms of subregulation (15), take account of any complaints received from housing consumers, any notices of non-compliance received by the home builder from the inspectorate, the enrolment history of the home builder and any other relevant matter.

(17) The Council may, pursuant to the re-evaluation contemplated in subregulation (15), decide to change the registration status of the home builder or the conditions attached to such registration after having notified, in terms of subregulation (8) and (9), the home builder of its decision and the reasons for any decision.

Terms and conditions for renewal of registration

12.(1) A home builder must annually, prior to the renewal date, apply for the renewal of its registration.

(2) The Council must notify a home builder of the home builder's obligation to renew the home builder's registration one month prior to its expiration.

(3) The Council must thereafter, if necessary, issue two further notices to serve to remind the home builder of the need to renew.

(4) From the date of expiration of a home builder's annual registration, the Council may suspend enrolments in terms of section 11(3) of the Act until such time as the home builder has renewed its registration.

(5) The notice requiring renewal may request the home builder to confirm the accuracy of the data maintained by the Council on the database referred to in section 9 of the Act and in relation to homes enrolled with the Council in the previous year or other years.

(6) The Council may in respect of the failure of the home builder to renew its registration, withdraw the registration of the home builder after instituting disciplinary proceedings in terms of section 11 of the Act.

(7) The failure to renew annual registration or the withdrawal of registration pursuant to section 11 of the Act does not affect the obligations of the home builder at the time in respect of housing consumers or in respect of the Council.

(8) If a home builder has been registered with the Council but has failed to renew his annual registration and wishes to re-register, the home builder may make application to the Council for registration.

(9) The Council must, in the circumstances contemplated in subregulation (8), consider the home builder's registration against the requirements of registration in terms of section 10 of the Act having regard to the previous registration history of the home builder.

Minimum and maximum amounts payable from Fund

13.(1) The maximum amount that may be expended by the Council under section 17(1) in respect of homes enrolled in terms of section 14(1) of the Act pursuant to a failure of a home builder to meet its obligations in terms of section 13(2)(b)(i) of the Act, is the selling price of the home as declared by the home builder at the time of the enrolment of the home, up to a maximum amount of R500 000.

(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 a maximum of five percent of the selling price, or R25 000, whichever is the lesser.

(3) No amount shall be paid out of the fund in relation to -

(a) any limitation or exclusion in terms of regulation 14;

(b) consequential or economic loss of any kind or description whatsoever, including damages and penalties for and losses due to delay, breach of contract, loss of rental income or default in mortgage loan repayments; and

(c) any costs, loss or liability for which compensation is covered under an insurance policy.

(4) The Council may in exceptional circumstances, instead of having a defect rectified, make a payment

to the housing consumer in full and final settlement of any claim.

(5) Should the costs of rectification, as estimated by the Council, in any particular case be less than five percent of the selling price of the home or R 4000, whichever is the lesser, the costs of such repairs is for the account of the housing consumer.

Limitations, qualifications and exclusions from deemed warranty

14. The limitations and exclusions contemplated under section 13(2)(b)(i) of the Act in respect of which a home builder is not liable for loss, damage, destruction or threat of collapse are -

(a) willful acts or willful omissions of the housing consumer or persons residing in the home;

(b) fire, explosion, lightning or damage caused by a third party;

(c) storm, flood or earthquake or any other convulsion of nature;

(d) structural alterations, repairs, modifications or alterations to the home as originally constructed and which affected the original structure of the home;

(e) inadequate maintenance or abnormal use of the home or the imposition of any load greater than that for which the structure of the home was designed or the use of the home for any purpose other than that for which it was designed;

(f) subsidence or landslip from any cause not related to non-compliance with the NHBRC technical requirements;

(g) any change in colour, texture, opacity or staining or other aging process;

(h) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds or the impact of aircraft or other aerial devices or articles dropped or falling

therefrom;

(i) destruction of or damage to the home or any loss of expense arising therefrom, or any liability of whatsoever nature related to ionising radiations or contamination by radio-activity from whatever cause or from nuclear weapons material;

(j) war, invasion, act of foreign enemy, hostilities (whether declared or not), civil war, revolution, rebellion, insurrection or military or usurped power, strike, riot, civil commotion;

(k) loss of damage to any finishes unless they must be repaired or replaced due to a major structural defect in the residential structure;

(l) wear and tear, deterioration caused by neglect or damage occasioned by the failure of the housing consumer timeously to notify a home builder of any defects;

(m) any costs, loss or liability for which compensation is provided by other legislation;

(n) anything which is of a petty nature which any reasonable home owner or housing consumer could be expected to rectify him or herself;

(o) misuse or abnormal use of private drainage system.

Obligation of conveyancer to ensure payment

15. For the purposes of complying with the provisions of sections 18(1) and (2) of the Act, a conveyancer must accept an enrolment certificate issued in terms of section 14(3) of the Act as proof of payment of the prescribed enrolment fee.

No. R. 1406 **1 Desember 1999**

WET OP BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS, 1998

ALGEMENE REGULASIES MET BETREKKING TOT BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS

Die Minister van Behuising het, na oorleg met die Nasionale Huisbouersregistrasieraad, kragtens artikels 1, 7(2) en 27 van die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. (1) In hierdie regulasies het 'n woord waaraan 'n betekenis in die Wet geheg word, daardie betekenis en, tensy uit die samehang anders blyk, beteken –

"Agrémentsertifikaat" 'n sertifikaat wat die aanvaarbaarheid bevestig van 'n nie gestandardiseerde ontwerp en die voorwaardes wat daarop betrekking het, uitgereik deur die Raad van Agrément Suid-Afrika;

"dag" nie ook 'n dag wat in die boubedryf se vakansietydperk val nie;

"deelgenoot" 'n persoon of liggaam wat substansiële eiendoms - of bestuursinvloed uitoefen ten opsigte van die huisbouer, wat insluit die hou van aandele of belange van nie minder as 20 persent van die uitgereikte aandele of totale belange nie;

"die Wet" die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998);

"kennis gee" kennis gee soos beoog in artikel 24 van die Wet;

"Raad se geregistreerde adres" Fernridge-kantoorpark, Hunterstraat 5, Ferndale, Randburg;

"Raad van Agrément Suid-Afrika" 'n liggaam wat kragtens die delegering van die gesag van die Minister van Openbare Werke funksioneer;

(2) Vir doeleindes van die omskrywing van "huis" in artikel 1 van die Wet beteken "huis" nie ook -

(a) losieshuise, hostelle, institusionele fasiliteite soos hospitale, gevangenisse, weeshuise en ander welsynshuisvesting, tyddeelhuisvesting, hotelle of enige residensiële struktuur wat opgerig is met minder as 75% van die vloeroppervlakte ontwerp vir residensiële doeleindes;

(b) enige tydelike residensiële strukture wat 'n hut of woonwa insluit;

(c) 'n huis opgerig soos beoog in uitsluitingsparagrawe (i) en (ii) van die omskrywing van "besigheid van 'n huisbouer" in artikel 1 van die Wet, en

(d) tot die inwerkingtreding van artikel 14(2) van die Wet, 'n huis wat deel uitmaak van 'n projek beoog in artikel 5(4)(c) van die Wet.

(3) Vir doeleindes van 'n eis kragtens artikel 17 van die Wet beteken "huis" -

(a) ook -

(i) die private dreineringstelsel van die struktuur af tot by die munisipale aansluiting of die vuilputaansluiting;

(ii) enige motorhuis of stoorkamer;

(iii) enige permanente buitegebou ontwerp vir residensiële doeleindes of vir 'n doel aansluitend tot residensiële doeleindes; en

(iv) enige keermuur,

wat die strukturele integriteit van die huis moet verseker, opgerig of verkry kragtens die ooreenkoms tussen die behuisingsverbruiker en die huisbouer;

(b) ook, in die geval van 'n deeltiteleenheid, die gemeenskaplike eiendom soos omskryf in die Wet op Deeltitels, 1986 (Wet No. 95 van 1986); en

(c) nie ook 'n heining, voorafgegiete omheining, tydelike struktuur, swembad, tennisbaan, hysbak, meganiese ventilasie- of lugreëlingstelsels, huishoudelike toebehore, stal of werkwinkel nie.

(4) Vir doeleindes van die kategorie huise vir inskrywing ingevolge artikel 14(1) van die Wet, beteken "huis" alle huise soos in die Wet of hierdie Regulasies omskryf, maar nie ook 'n huis wat deel van 'n projek vorm beoog in artikel 5(4)(c) van die Wet nie.

(5) Vir doeleindes van die omskrywing van "besigheid van 'n huisbouer" in artikel 1 van die Wet, beteken die besigheid van 'n huisbouer ook die aktiwiteit van 'n regspersoon wat grond aankoop en dit ontwikkel en huise daarop oprig, en die verkoop daarna van die regspersoon wat die eienaar van die grond is, eerder as die grond self.

NHBRR tegniese vereistes betreffende strukturele sterkte en stabiliteit

2.(1) 'n Huis en enige struktuurelement of onderdeel daarvan moet so ontwerp en opgerig word dat dit sterkte en stabiliteit bied vir die leeftyd van die struktuur ooreenkomstig heersende aanvaarde standaarde van goeie praktyk.

(2) Fondasies moet ontwerp en opgerig word om die las van die bobou veilig en sonder oormatige beweging van of spanning vir die strukture wat daarop rus, oor te dra op die grondlae.

(3) Fondamente moet so ontwerp en opgerig word dat hulle differensiële verskuiwing weerstaan en die beweging van vog na die binnekant van die huis voorkom.

(4) Vloere en trappe moet so ontwerp en opgerig word dat hulle hulle eie ruslas benewens enige bewegende las waaraan hulle waarskynlik onderwerp sal word, veilig en sonder oormatige vervorming en spanning kan dra.

(5) Mure moet so ontwerp en opgerig word dat dit enige las waaraan dit waarskynlik onderwerp sal word, kan weerstaan sonder om weerdigtheid te benadeel en sonder oormatige vervorming en spanning.

(6) Dakke en die samestellende dele daarvan moet so ontwerp en opgerig word dat dit enige krag waaraan dit waarskynlik onderwerp sal word, veilig kan weerstaan sonder dat die dakkonstruksie van sy stutstrukture loskom.

NHBRR tegniese vereistes met betrekking tot diensbaarheid

3.(1) 'n Huis en enige struktuurelement of onderdeel daarvan moet duursaam wees, waterbinnedringing weerstaan en kondensasie voorkom wat geskiktheid vir bewoning kan benadeel, en moet enige las waaraan dit waarskynlik onderwerp sal word, weerstaan sonder oormatige defleksie, vervorming of kraking gedurende die leeftyd van die struktuur.

(2) Mure moet so ontwerp en opgerig word dat dit binnedringing van water na die binnekant van die huis weerstaan.

(3) Dakke moet so ontwerp en opgerig word dat dit binnedringing van water weerstaan en die akkumulasie van reënwater daarop voorkom.

NHBRR tegniese vereistes met betrekking tot brand

4. Die brandbaarheids- en brandweerstandseienskappe van die vloere, mure, dak en plafonsamestelling moet geskik wees vir die plasing en gebruik van daardie dele.

NHBRR tegniese vereistes met betrekking tot materiale

5. Materiale gebruik in die konstruksie van huise moet van voldoende duursaamheid en van geskikte gehalte wees vir die doel waarvoor dit gebruik gaan word.

NHBRR tegniese vereistes met betrekking tot dreinering

6. Dreineringsinstallasies moet so ontwerp en opgerig word dat die installasie die hidrouliese ontwerplas kan dra en maklik onderhou kan word, en dat dit nie sal lei tot lekkasies wat die strukturele integriteit van die huis nadelig sal beïnvloed nie.

NHBRR tegniese vereistes met betrekking tot stormwaterafvoer

7. Geskikte maniere, verkieslik van faalveilige aard, moet voorsien word vir die beheer en afvoer van stormwater op 'n wyse wat –

(a) nie tot gronderosie of oorstroming sal lei wat die strukturele integriteit van die huis nadelig sal beïnvloed nie; en

(b) die risiko van stormwater wat die huis binnekom, verminder.

Voldoening aan die NHBRR tegniese vereistes met betrekking tot ontwerp

8. Die NHBRR tegniese vereistes bedoel in Regulasies 2, 3, 4, 5, 6 en 7 word geag nagekom te wees wanneer 'n huisbouer -

(a) die riglyne deur die Raad ingevolge artikel 12(1)(b) van die Wet voorgeskryf, nagekom het; of

(b) 'n rasionele ontwerp verkry het wat berus op ingenieursbeginsels ooreenkomstig die betrokke vereistes vasgestel deur die Raad ingevolge artikel 12(2) bepaal; of

(c) 'n Agrémentsertifikaat verkry het ooreenkomstig die toepaslike vereistes bepaal deur die Raad ingevolge artikel 12(2) van die Wet.

Voldoening aan die NHBRR tegniese vereistes met betrekking tot oprigting

9. Die NHBRR tegniese vereistes voorgeskryf in regulasies 2, 3, 4, 5, 6 en 7 word geag nagekom te wees wanneer 'n huisbouer –

(a) die riglyne deur die Raad ingevolge artikel 12(1) van die Wet voorgeskryf, nagekom het; of

(b) aan die oprigtingstandaarde en -spesifikasies vermeld in die rasionele ontwerp opgestel deur 'n bevoegde persoon kragtens artikel 12(2) van die Wet, voldoen het; of

(c) die toepaslike vereistes vir oprigting uiteengesit in die toepaslike Agrémentsertifikaat, nagekom het.

Voldoening met betrekking tot materiale

10.(1) Die Raad mag van 'n huisbouer vereis om die Raad te oortuig dat die materiale wat deur die huisbouer gebruik is of gebruik staan te word in die oprigting van 'n huis, voldoen aan die vereistes met betrekking tot materiale en die riglyne met betrekking daartoe deur die Raad voorgeskryf ingevolge artikel 12(1)(b) van die Wet, of aan die vereistes gestel deur 'n bevoegde persoon ingevolge artikel 12(2) van die Wet, of die betrokke vereistes uiteengesit in 'n Agrémentsertifikaat.

(2) Die toetse wat die Raad op materiale mag doen, is die toepaslike toetse aangewend deur die Suid-Afrikaanse Buro vir Standaarde beoog in die Wet op Standaarde, 1993 (Wet No. 29 van 1993), of die betrokke bedryfsinstansies, soos die Sement- en Betoninstituut, ('n vereniging ingelyf ingevolge artikel 21 van die Maatskappyewet, 1973 (Wet No. 61 van 1973 met registrasienommer 05/11756/08) of die Wetenskaplike en Nywerheidnavorsingsraad genoem in die Wet op die Wetenskaplike Navorsingsraad, 1988 (Wet No. 46 van 1988).

(3) Die Raad kan van 'n huisbouer vereis om op aanvraag monsters van materiale en dele vir toetsing beskikbaar te stel.

(4)'n Kennisgewing met betrekking tot die opskorting of kansellering van die inskrywing van 'n huis soos beoog in artikel 14(4) van die Wet of die verhaling van die koste van 'n ondersoek of toets kragtens artikel 19(4) van die Wet moet –

(a) die aspekte van sodanige materiaal of deel wat nie aan die vereistes voldoen nie, vermeld;

(b) die huisbouer verbied om sodanige materiaal of deel te gebruik; en

(c) vereis dat die huisbouer sodanige materiale of dele wat gebruik is of sou word in die konstruksie van die betrokke huis, op eie koste verwyder en vervang.

Bedinge en voorwaardes van registrasie

11.(1) Vir doeleindes van die oorweging van 'n aansoek ingevolge artikel 10 van die Wet mag die Raad die inligting verstrek op die aansoekvorm voorgeskryf deur die Raad, in aanmerking neem.

(2) Die Raad mag aanvullende inligting van die huisbouer of enige ander persoon vereis en mag die ondersoeke instel wat dit nodig ag om die aansoek te oorweeg.

(3)Die Raad of enige persoon deur die Raad ingekontrakteer moet enige finansiële inligting deur 'n aansoeker as deel van sy aansoek tot die Raad verskaf met absolute vertroulikheid hanteer.

(4) Wanneer die Raad 'n aansoek van 'n huisbouer ontvang –

(a) wat na die mening van die Raad beperkte kapitaal, beperkte vaste bates of 'n beperkte aktiewe handelsgeskiedenis het; of

(b) ten opsigte van wie die Raad rede het om die vermoë te betwyfel om verpligtinge teenoor behuisingsverbruikers en teenoor die Raad na te kom,

mag die Raad persoonlike borgstellings, vrywarings en waarborge soos beoog in artikel 10(5) van die Wet van die huisbouer of van die vennote, direkteure, lede, aandeelhouers of trustees van die huisbouer of van dié van sy deelgenote vereis.

(5) Die Raad mag, waar dit 'n aansoek ontvang van 'n huisbouer ten opsigte waarvan daar 'n deelgenoot bestaan, sekuriteit van sodanige deelgenoot vereis.

(6) Die Raad mag binne die Raad se diskresie 'n tegniese evaluering van die huisbouer onderneem deur –

(a) 'n tegniese onderhoud te voer om die vermoë van 'n huisbouer om die riglyne in die Huisbouhandleiding na te kom en daaraan te voldoen, te bepaal;

(b) perseelbesoeke of inspeksies te onderneem om huise en ander vorme van oprigting reeds voltooi of onder oprigting deur die huisbouer te ondersoek.

(7) Die Raad mag as 'n voorvereiste vir registrasie vereis dat –

(a) vorige oprigtingsverwante probleme bevredigend reggestel word; of

(b) geldverwante probleme, soos die opheffing van hofbevele, bevredigend opgelos word.

(8) Indien die Raad besluit –

(a) om die huisbouer se registrasie aan voorwaardes onderhewig te maak; of

(b) aan die voorwaardes waaraan die huisbouer se registrasie reeds onderhewig is te wysig, aan te vul of te kanselleer,

moet die Raad die huisbouer dienooreenkomstig in kennis stel.

(9) 'n Besluit ingevolge subregulasie (8) word van krag –

(a) by ontvangs van die aanvaarding van enige voorwaardes van die huisbouer; of

(b) 30 dae nadat kennis aan die huisbouer gegee is, tensy die huisbouer sy regte kragtens artikel 10(9) van die Wet uitoefen om skriftelike vertoë tot die Raad te rig.

(10) Die Raad mag, wanneer 'n huisbouer voorlopig of op voorwaardes geregistreer is -

(a) die aantal huise wat die huisbouer mag inskryf, beperk;

(b) van die huisbouer vereis om die inspektoraat in kennis te stel van sleutelstadiums van oprigting soos deur die Raad bepaal, vroegtydig genoeg om die Raad die geleentheid te bied om na goeddunke 'n inspeksie te reël; en

(c) enige ander redelike voorwaarde stel wat die Raad gepas ag,

tot tyd en wyl die huisbouer bewys kan lewer van die huisbouer se vermoë om die verpligtinge van 'n geregistreerde huisbouer na te kom.

(11) Indien die Raad bepaal het dat 'n huisbouer aan die vereistes van artikel 10 van die Wet voldoen, moet die Raad 'n registrasiesertifikaat aan die huisbouer uitreik indien die Raad, by die registreerde adres -

(a) skriftelike aanvaarding van enige voorwaardes;

(b) enige borgstellings, vrywarings of waarborge versoek, behoorlik onderteken en ingevul; en

(c) betaling van die registrasiefooi,

ontvang het.

(12) Die registrasie van 'n huisbouer bly vir een jaar geldig.

(13) Die huisbouer moet die Raad onverwyld verwittig indien die huisbouer -

(a) die huisbouer sy geregistreerde adres by die Raad, sy kantoorperseel of sy telefoon- of faksnommer verander;

(b) die huisbouer handelsbedrywighede staak of besluit om dit te doen;

(c) 'n enkelhandelaar is en enige persoon 'n finansiële belang in die huisbouer verkry;

(d) 'n vennootskap is en daar 'n verandering in die samestelling van die vennootskap is;

(e) 'n maatskappy is en daar 'n verandering in die direksie is of enige persoon meer as tien persent van die uitgereikte aandele van die maatskappy verkry;

(f) 'n beslote korporasie is en daar 'n verandering in die lidmaatskap van die beslote korporasie of die ledebelanghouding is;

(g) 'n trust is en daar 'n verandering in die samestelling van die raad van trustees of die uiteindelike bevoordeelde is; of

(h) nie meer die huisbouer se verpligtinge ingevolge die Wet kan nakom nie.

(14) 'n Kennisgewing ingevolge subregulasie (13) moet die volle naam, identiteitsnommer en adresse bevat van enige persoon wat 'n finansiële belang verkry, asook sodanige ander inligting as wat die Raad vereis.

(15) Die Raad mag te eniger tyd uit eie beweging of op grond van inligting ontvang of op versoek van die huisbouer, die huisbouer se registrasie hersien met inagneming van die huisbouer se prestasie as 'n huisbouer gedurende die tydperk van registrasie en enige veranderings in die eienaarskap van die huisbouer.

(16) Die Raad mag, wanneer die Raad ingevolge subregulasie (15) optree, kennis neem van enige klagtes ontvang van behuisingsverbruikers, enige kennisgewings van nie-nakoming deur die huisbouer van die inspektoraat ontvang, die inskrywingsgeskiedenis van die huisbouer en enige ander verbandhoudende aangeleentheid.

(17) Die Raad mag, na herevaluering in subregulasie (15) beoog, besluit om die registrasiestatus van die huisbouer of die voorwaardes aan sodanige registrasie verbonde te verander, nadat ingevolge subregulasie (8) en (9), die huisbouer van die Raad se besluit of die redes vir enige besluit, in kennis gestel is.

Bedinge en voorwaardes vir hernuwing van registrasie

12.(1) 'n Huisbouer moet jaarliks, voor die hernuwingsdatum, om die hernuwing van registrasie aansoek doen.

(2) Die Raad moet een maand voor die verval daarvan, die huisbouer in kennis stel van die huisbouer se verpligting om die huisbouer se registrasie te hernu.

(3) Die Raad moet daarna, indien nodig, twee verdere kennisgewings uitreik om die huisbouer daaraan te herinner dat registrasie hernu moet word.

(4) Vanaf die datum van die verval van 'n huisbouer se jaarlikse registrasie, mag die Raad inskrywings opskort ingevolge artikel 11 (3) van die Wet totdat die huisbouer die huisbouer se registrasie hernu het.

(5) Die kennisgewing wat hernuwing vereis mag die huisbouer versoek om die akkuraatheid van data wat deur die Raad op die databasis in artikel 9 van die Wet bedoel hou te bevestig en betreffende huise wat in die vorige jaar of jare ingeskryf is.

(6) Die Raad mag vanweë die versuim van die huisbouer om registrasie te hernu, die registrasie van die huisbouer intrek nadat dissiplinêre verpligtinge ingevolge artikel 11 van die Wet ingestel is.

(7) Die versuim om jaarlikse registrasie te hernu of die intrekking van registrasie op grond van artikel 11 van die Wet het geen invloed op die verpligtinge van die huisbouer ten opsigte van behuisingverbruikers of die Raad ten tyde daarvan nie.

(8) Indien 'n huisbouer by die Raad geregistreer was maar nagelaat het om die jaarlikse registrasie te hernu en weer wil registreer, moet die huisbouer 'n aansoek om registrasie tot die Raad rig.

(9) Die Raad moet in die omstandighede in subregulasie (8) beoog, die huisbouer se registrasie oorweeg in die lig van die vereistes ingevolge artikel 10 van die Wet met inagneming van die voorafgaarde geskiedenis van die huisbouer.

Minimum- en maksimumbedrae betaalbaar uit Fonds

13. (1) Die maksimumbedrag wat deur die Raad ingevolge artikel 17(1) bestee mag word ten opsigte van huise ingeskryf ingevolge artikel 14(1) van die Wet op grond van die versuim van 'n huisbouer om sy verpligtinge ingevolge artikel 13(2)(b)(i) na te kom, is die verkoopprys van die huis deur die huisbouer verklaar ten tyde van die inskrywing van die huis, tot 'n maksimum van R500 000.

(2) Die maksimumbedrag wat bestee mag word, mag insluit –

(a) enige professionele gelde bestee deur die Raad aan die ondersoek en bepaling van 'n kostedoeltreffende metode van regstelling;

(b) die nodige koste van die regstelling van 'n ernstige strukturele gebrek en die herstel van enige afwerking noodsaaklikerwys beskadig in die regstellingsproses; en

(c) redelike akkommodasiekoste, waar dit na die mening van die Raad, vir 'n behuisingsverbruiker onredelik sou wees om die eiendom te bly bewoon vanweë die uitgebreide aard van die regstellingswerke, teen maksimum daaglikse tariewe deur die Raad voorgeskryf, tot 'n maksimum van vyf persent van die verkoopprys, of R25 000, wat ook al die minste is.

(3) Geen bedrag word uit die fonds betaal nie met betrekking tot -

(a) 'n beperking of uitsluiting ingevolge regulasie 14;

(b) gevolglike of ekonomiese verlies van enige aard of beskrywing hoegenaamd, met inbegrip van skadevergoeding en boetes vir en verliese as gevolg van vertragings, kontrakbreuk, verlies van huurinkomste of wanbetaling van verbandleningterugbetalings; en

(c) enige koste, verlies of verpligting waarvoor skadeloosstelling deur 'n versekeringspolis gedek word.

(4) Die Raad mag in uitsonderlike omstandighede, in plaas van regstelling van 'n gebrek, 'n betaling aan die behuisingsverbruiker doen in volle vereffening van 'n eis.

(5) Indien die koste van regstelling volgens die beraming van die Raad in 'n bepaalde geval minder as vyf persent van die verkoopprys van die huis of R4 000 is, wat ook al die minste is, is die koste van sodanige herstelwerk vir rekening van die behuisingsverbruiker.

Beperkings, kwalifikasies en vrystellings van geagte waarborg

14. Die beperkings en vrystellings beoog in artikel 13(2)(b)(i) van die Wet ten opsigte waarvan 'n huisbouer nie aanspreeklik is vir verlies, skade, vernietiging of dreigende ineenstorting nie, is -

(a) opsetlike handelinge of opsetlike versuime deur die behuisingsverbruiker of persone wat in die huis woon;

(b) brand, ontploffing, weerlig, of skade veroorsaak deur 'n derde party;

(c) storm, vloed of aardbewing of enige ander vorm van natuurgeweld;

(d) strukturele veranderinge, herstelwerk, wysigings of veranderinge aan die huis soos oorspronklik opgerig, wat die oorspronklike struktuur van die huis geaffekteer het;

(e) onvoldoende instandhouding of abnormale gebruik van die huis of onderwerping aan 'n groter las as waarvoor die struktuur van die huis ontwerp is of die gebruik van die huis vir enige ander doel as waarvoor dit ontwerp is;

(f) insakking of grondverskuiwing wat veroorsaak is deur enigiets wat nie verband hou met nie-nakoming van die NHBRR tegniese vereistes nie;

(g) enige verandering in kleur, tekstuur, dekvermoë of beitsing of 'n ander verouderingsproses;

(h) drukgolwe veroorsaak deur lugvaartuie of ander lugtoestelle wat teen soniese of supersoniese snelhede beweeg of die impak van lugvaartuie of ander lugtoestelle of voorwerpe wat daarvan val;

(i) vernietiging van of skade aan die huis of enige verlies of uitgawe wat daaruit ontstaan, of enige ander aanspreeklikheid van watter aard ook al wat verband hou met ioniserende straling of kontaminasie deur radioaktiwiteit van watter bron ook al of van kernwapenmateriaal;

(j) oorlog, vyandelike inval, optrede van 'n buitelandse vyand, vyandelikhede (hetsy verklaar al dan nie), burgeroorlog, revolusie, rebellie, opstand of militêre of geüsurpeerde gesag, staking, oproer, of burgerlike onluste;

(k) verlies van of skade aan enige afwerking, tensy dit herstel of vervang moet word weens 'n ernstige strukturele gebrek in die struktuur;

(l) slytasie, agteruitgang veroorsaak deur verwaarlosing of skade meegebring deur die versuim van die behuisingsverbruiker om die huisbouer tydig te verwittig van enige gebreke;

(m) enige koste, verlies of aanspreeklikheid waarvoor vergoeding by ander wetgewing voorsien word;

(n) enigiets van kleinlike aard ten opsigte waarvan redelikerwys verwag kan word dat 'n redelike huiseienaar of behuisingsverbruiker dit self sal kan herstel;

(o) misbruik of abnormale gebruik van die private dreineringstelsel.

Verpligtinge van aktevervaardiger om betaling te verseker

15. Vir doeleindes van voldoening aan artikels 18(1) en (2) van die Wet moet 'n aktevervaardiger 'n inskrywingsertifikaat ingevolge artikel 14(3) van die Wet uitgereik, as bewys van betaling van die voorgeskrewe inskrywingsgeld aanvaar.

No. R. 1407 1 December 1999

HOUSING CONSUMERS PROTECTION MEASURES ACT, 1998

RULES REGARDING NHBRC FEES

The National Home Builders Registration Council has under section 7(1)(a)(iii) and (iv) of the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998), made the Rules in the Schedule.

SCHEDULE

Definitions

1.(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 -

"enrolment fee" means the enrolment fee payable by home builders as contemplated in section 14(1)(a) of the Act;

"selling price" means, in the case of a deed of sale, the total selling or package price as determined by the deed of sale, including VAT, and in the case of a building contract, the contract price, including VAT, as determined in the building contract, together with the price at which the serviced erf has been acquired;

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

"VAT" means Value Added Tax in terms of the Value Added Tax Act, 1991 (Act No. 89 of 1991).

(2) Any fee prescribed in these rules includes VAT.

Calculation of enrolment fee

2.(1) The enrolment fee for homes to be enrolled under section 14(1) of the Act is one point three percent of the selling price of the home up to a maximum selling price of R500 000.

(2) The enrolment fee for a home exceeding the selling price referred to in subrule (1) is one point three percent of R500 000 plus one percent of that portion of the selling price exceeding R500 000 but not exceeding R1 000 000.

(3) The enrolment fee for a home with a selling price exceeding R1 000 000 but not exceeding R2 000 000 is the fee calculated in accordance with subrule (2) plus point seven five percent of that portion of the selling price exceeding R1 000 000.

(4) The enrolment fee for a home with a selling price exceeding R2 000 000 is the fee calculated in accordance with subrule (3) plus point five percent of that portion of the selling price exceeding R2 000 000 up to R5 000 000, whereafter no additional amount is payable.

(5) If a deed of sale does not exist at the time of enrolment for sectional title homes or homes built in speculation of sale-

(a) the enrolment fee must be determined with reference to the expected selling price;

(b) the home builder must submit marketing brochures reflecting selling prices or extracts from the feasibility studies reflecting details relating to selling prices, in order to enable the Council to compare proposed selling prices with actual selling prices.

(6) Where under-declaration of the selling prices in respect of homes has occurred, the home builder must, on demand of the Council, pay the outstanding difference in enrolment fees.

(7) Where the home builder is unable to provide the price at which the serviced erf has been acquired, the Council may determine a reasonable price for the purposes of determining an enrolment fee only.

Calculation of late enrolment fee

3. A late enrolment fee where a home is enrolled after the commencement of construction and in the circumstances prescribed by the Council in rule 14 of the Rules promulgated by Government Notice No. R ..... of ..... 1999, is calculated on the basis of -

(a) the number of homes to be enrolled late, calculated at R150 per unit;

(b) the estimated cost of inspection of the homes to assess compliance with the NHBRC technical requirements, calculated at R250 per hour; and

(c) the estimated travel costs associated with the inspection contemplated in paragraph (b) based on the rates as laid down by the Automobile Association of South Africa for the distance between the site and the closest Regional Office of

the Council.

Fees for copies of Council documentation

4. The fees for obtaining copies of any document in terms of section 9(4) of the Act are-

(a) Rules	R5;
(b) Home Building Manual	R100;
(c) Other Circulars	R2,50; and
(d) Council Annual Report	R25.

Fees and deposits for complaints, conciliation and arbitration services

5.(1) The refundable conciliation deposit which is applicable to requests for conciliations in terms of complaints relating to sections 13(2)(a)(ii), 13(2)(b)(i), (iii) and sections 13(6) and (7) of the Act, is-

(a) R100 in the case of a home enrolled with a selling price of R100 000 or less; and

(b) R300 in the case of a home enrolled with a selling price of above R100 000.

(2) The conciliation fee which is applicable to requests for conciliation in terms of complaints relating to section 13(1), 13(2)(a)(i) and (iii) and 13(2)(b)(ii) of the Act or complaints referred to the Council by the home builder in terms of section 13(8), is-

(a) R100 in the case of a home enrolled with a selling price of R100 000 or less; and

(b) R300 in the case of a home enrolled with a selling price above R100 000.

(3) The fees payable to an arbitrator in any dispute referred for arbitration in terms of the Act shall be R450 per hour plus reasonable disbursements.

(4) The internal complaints deposit required by the Council in relation to receipt of a complaint contemplated in section 22(3) of the Act, is R500.

No. R. 1407 1 Desember 1999

WET OP BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS, 1998

REËLS BETREFFENDE NHBRR GELDE

Die Nasionale Huisbouersregistrasieraad het kragtens artikel 7(1)(a)(iii) en (iv) van die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), die reëls in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1.(1) In hierdie reëls het enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, daardie betekenis en, tensy uit die samehang anders blyk, beteken –

"BTW" Belasting op Toegevoegde Waarde ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991);

"die Wet" die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998);

"inskrywingsgeld" die inskrywingsgeld betaalbaar deur huisbouers bedoel in artikel 14(1)(a) van die Wet;

"verkoopprys", in die geval van 'n koopakte, die totale verkoop- of pakketprys soos bepaal in die koopakte, insluitende BTW, en in die geval van 'n boukontrak, die kontrakprys, insluitende BTW, soos bepaal in die boukontrak, tesame met die prys waarteen die gedienste erf verkry is.

(2) Enige gelde in hierdie reëls voorgeskryf, sluit BTW in.

Berekening van die inskrywingsgeld

2.(1) Die inskrywingsgeld van huise wat ingevolge artikel 14(1) van die Wet ingeskryf moet word, is een komma drie persent van die verkoopprys van die huis, tot 'n maksimum van R500 000.

(2) Die inskrywingsgeld van 'n huis wat die verkoopprys bedoel in subreël (1) oorskry, is een komma drie persent van R500 000 plus een persent van die deel van die verkoopprys wat R500 000 oorskry maar nie R1 000 000 oorskry nie.

(3) Die inskrywingsgeld van 'n huis met 'n verkoopprys van meer as R1 000 000 maar nie meer as R2 000 000 nie, is die geld soos bereken ooreenkomstig subreël (2) plus nul komma sewe vyf persent van die deel van die verkoopprys wat R1 000 000 oorskry.

(4) Die inskrywingsgeld van 'n huis met 'n verkoopprys van meer as R2 000 000 is die geld soos bereken

ooreenkomstig subreël (3) plus nul komma vyf persent van die deel van die verkoopprys wat R2 000 000 oorskry, tot 'n maksimum van R5 000 000, waarna geen bykomende bedrag betaalbaar is nie.

(5) Indien 'n koopakte nie bestaan ten tyde van die inskrywing van deeltitelhuise of huise gebou vir spekulasieverkope-

(a) moet die verkoopprys bepaal word op grond van die verwagte verkoopprys;

(b) moet die huisbouer bemarkingsbrosjures voorlê wat die verkooppryse verstrek of uittreksels uit die uitvoerbaarheidstudies wat besonderhede met betrekking tot verkooppryse verstrek, ten einde die Raad in staat te stel om voorgestelde verkooppryse met werklike verkooppryse te kan vergelyk.

(6) Wanneer onderverklaring van die verkooppryse ten opsigte van huise voorgekom het, moet die huisbouer, op aanvraag van die Raad, die uitstaande verskil in inskrywingsgeld betaal.

(7) Indien die huisbouer nie in staat is om die prys te voorsien waarteen die gedienste erf bekom is nie, kan die Raad 'n redelike prys bepaal slegs vir die doeleindes van die bepaling van inskrywingsgeld.

Berekening van laatinskrywingsgeld

3. Laatinskrywingsgeld waar 'n huis ingeskryf word na die aanvang van konstruksie en in die omstandighede voorgeskryf deur die Raad in reël 14 van die Reëls afgekondig by Goewermentskennisgewing No. R ..... van ..... 1999, word bereken op grond van -

(a) die aantal huise wat ingeskryf moet word, bereken teen R150 per eenheid;

(b) die beraamde koste van die inspeksie van die huise om nakoming van die NHBRR Tegniese Vereistes vas te stel, bereken teen R250 per uur; en

(c) die beraamde reiskoste verbonde aan die inspeksie bedoel in paragraaf (b) volgens die tariewe bepaal deur die Automobiel-Assosiasie van Suid-Afrika, vir die afstand tussen die terrein en die naaste Streekkantoor van die Raad.

Gelde vir afskrifte van Raadsdokumente

4.Die gelde betaalbaar vir die verkryging van afskrifte van enige dokumente van die Raad kragtens artikel 9(4) van die Wet is die volgende:

(a)	Reëls	R5;
(b)	Huisbouhandleiding	R100;
(c)	Ander omsendbriewe	R2,50; en
(d)	Jaarverslag van die Raad	R25.

Gelde en deposito's vir klagtes, bemiddeling en arbitrasie

5.(1) Die terugbetaalbare bemiddelingsdeposito van toepassing op bemiddelingsversoeke ingevolge klagtes met betrekking tot artikels 13(2)(a)(ii), 13(2)(b)(i), (iii) en artikels 13(6) en (7) van die Wet, is –

(a) R100 in die geval van 'n ingeskrewe huis met 'n verkoopprys van R100 000 of minder; en

(b) R300 in die geval van 'n ingeskrewe huis met 'n verkoopprys van meer as R100 000.

(2)Die bemiddelingsgeld van toepassing op bemiddelingsversoeke ingevolge klagtes met betrekking tot artikel 13(1), 13(2)(a)(i) en (iii) en 13(2)(b)(ii) van die Wet of klagtes verwys na die Raad deur 'n huisbouer ingevolge artikel 13(8), is –

(a) R100 in die geval van 'n ingeskrewe huis met 'n verkoopprys van R100 000 of minder;

(b) R300 in die geval van 'n ingeskrewe huis met 'n verkoopprys van meer as R100 000.

(3) Die gelde betaalbaar aan 'n arbiter in enige geskil wat vir arbitrasie verwys is ingevolge die Wet is R450 per uur plus redelike uitbetalings.

(4) Die interneklagtedeposito benodig deur die Raad met betrekking tot ontvangs van 'n klagte bedoel in artikel 22(3) van die Wet, is R500.

No. R. 1408 1 December 1999

HOUSING CONSUMERS PROTECTION MEASURES ACT, 1998

NATIONAL HOME BUILDERS REGISTRATION COUNCIL RULES

The National Home Builders Registration Council has under section 7(1) of the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998) made the rules in the Schedule.

SCHEDULE

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 indicates otherwise -

"Agrément certificate" means a certificate confirming the acceptability of a non standardised design and the conditions pertaining thereto issued by the Board of Agrément South Africa;

"Board of Agrément South Africa" means the body operating under the delegation of authority of the Minister of Public Works;

"conciliation deposit" means the refundable deposit prescribed by the Council in rule 5(1) of the Rules promulgated by Government Notice No. R ..... of 1999;

"conciliation fee" means the fee applicable to requests for conciliations prescribed by the Council in rule 5(2) of the Rules promulgated by Government Notice No. R ..... of 1999;

"committee" means the disciplinary committee contemplated in section 5(1)(b) of the Act;

"council's registered address" means Fernridge Office Park, 5 Hunter Street, Ferndale, Randburg;

"day" excludes any day falling within the building industry recess period;

"enrolment fee" means the enrolment fee prescribed by the Council in rule 2 of the Rules promulgated by Government Notice No. R ..... of 1999;

"fees of the arbitrator" means the fees of the arbitrator prescribed by the Council in rule 5(3) of the Rules promulgated by Government Notice No. R ..... of 1999;

"internal complaints deposit" means the deposit prescribed by the Council in rule 5(4) of the Rules promulgated by Government Notice No. R ..... of 1999;

"inspectorate" means the inspectors appointed or contracted by the Council to assist home builders to comply with the NHBRC technical requirements;

"late enrolment fee" means the late enrolment fee prescribed by the Council in rule 3 of the Rules promulgated by Government Notice No. R.....of 1999;

"Minister's Regulations" means the Regulations promulgated by Government Notice No. R ..... of 1999;

"notify" means to serve in accordance with section 24 of the Act;

"phased sectional title development" means a sectional title scheme undertaken in phases as contemplated in section 25 of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"selling price" means, in the case of a deed of sale, the total selling or package price as determined by the deed of sale, including VAT, and in the case of a building contract, the contract price, including VAT, as determined in the building contract, together with the price at which the serviced erf has been acquired;

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

"VAT" means Value Added Tax in terms of the Value Added Tax Act, 1991 (Act No. 89 of 1991).

Procedures for Registration and expiration of registration

2.(1) A home builder wishing to apply for registration must make application to the Council at the Council's registered address by the completion and submission of an application for registration in the form of Annexure 1 and payment of the application fee prescribed by the Minister.

(2) The Council shall issue a registration certificate in the form of Annexure 2 where the Council has determined that the home builder meets the requirements set out in section 10 of the Act and the terms and conditions set out in the Minister's Regulations promulgated by Government Notice No. R ..... of ..... 1999.

(3) The Council must cancel the registration of a home builder on the written request from the home builder.

(4) If a home builder's registration is withdrawn, cancelled or not renewed, such home builder must -

(a) refrain from purporting that the home builder is a registered home builder;

(b) immediately return to the Council any registration or enrolment certificates or promotional material referring to the Council or implying a registration status awarded by the Council; and

(c) refrain from providing any enrolment certificate or any other material to a housing consumer or any other person on an enrolled home that has not been occupied without the express written consent of the Council.

(5) Notwithstanding withdrawal of registration or failure to renew registration, a home builder must -

(a) continue to comply with these rules in respect of any homes constructed by the home builder;

(b) discharge any actual or contingent liability that the home builder has incurred to the housing consumer or to the Council;

(c) pay the Council any amount payable under these rules whether it fell due before or after the effective date of non-renewal or withdrawal.

(6) Where a home builder wishes to cease conducting the business of a home builder, for whatever reason,

the home builder may request the Council to assume the home builder's responsibilities in terms of section 13(2)(b)(i) on homes enrolled with the Council.

(7) The home builder must inform the Council under the circumstances contemplated in subrule (6) of any complaints received by the home builder on homes constructed by it.

(8) If the Council is prepared to assume the obligations contemplated in subrule (6), it will notify the home builder of the amount of any prescribed payment it requires to meet any potential claims for rectification.

Enrolment Process

3. A home builder must -

(a) submit the home for enrolment to the Council 15 days prior to the commencement of construction and confirm that the home is available for inspection by the Council inspectorate throughout the construction process;

(b) confirm that the necessary steps have been taken by the home builder as required in the Home Building Manual prior to the commencement of construction;

(c) provide a soil classification confirmed by a competent person to ensure the correct foundation type is used in the construction of a home; and

(d) where necessary, as required in the Home Building Manual, provide proof of the involvement of a competent person in foundation design, rational design, non-standardised construction or investigation of dolomitic or limestone conditions.

Competent persons

4.(1) When requested by the Council, a competent person must complete a questionnaire in the form of

Annexure 3 and provide proof of his or her registration in terms of the Engineering Professions of South Africa Act, 1990 (Act No. 114 of 1990), or in terms of section 11 of the Natural Scientific Professions Act, 1993 (Act No. 106 of 1993).

(2) The amount required to be held by way of professional indemnity insurance by a competent person is an amount not less than R500 000.

(3) The Council may require a competent person annually to provide it with details and proof of its indemnity insurance.

Methods of Payment of Enrolment Fees

5. (1) Depending on the circumstances, payment of enrolment fees may be effected by -

(a) payment of the full enrolment fee directly to the Council as set out in rule 6;

(b) with the agreement of the housing consumer and the financial institution, payment to the Council from monies owed to the home builder by the housing consumer as a first progress payment under the mortgage loan as set out in rule 7; or

(c) payment of the enrolment fee in stages by a home builder constructing a sectional title complex as set out in rule 8.

(2) All payments in respect of enrolment fees must be made to:

The National Home Builders Registration Council
Account No. 4045581790
Absa Bank,
Braamfontein Branch,
Branch Code: 630605.

Direct and full payment by bank guaranteed cheque or cash bank transfer.

6.(1) A home builder must pay the enrolment fee in the full amount payable directly to the Council by way of a bank guaranteed cheque or cash bank transfer -

(a) where the consideration for the acquisition or construction of the home is payable in cash without the registration of a mortgage loan;

(b) where homes are built in speculation of sale; or

(c) in the case of the late enrolment of a home in terms of rules 14 and 15.

(2) Payment may also be made in the manner contemplated in subrule (1) in the case of sectional title homes, homes constructed in terms of a building contract, or by any other form of agreement.

Payment by mortgage lender as first progress payment

7.(1) A home builder may, subject to subrule (4), make payment of the enrolment fee where the housing consumer authorises the mortgage lender to make payment to the Council from the proceeds of money owing to the home builder by the housing consumer in respect of the construction of the home.

(2) Where the housing consumer has consented to a financial institution which has an agreement with the Council to effect such payment, the home builder must submit to the Council the documents contemplated in rule 12(1), together with the authorisation in the form of Annexure 4.

(3) Payment in accordance with subrule (1) may only be used where a building contract has been concluded between the housing consumer and the home builder in respect of the construction of a home.

(4) Payment in accordance with subrule (1) may not be made where the home is a sectional title unit or is constructed in speculation of sale or in the case of the late enrolment of a home.

(5) The enrolment fee must be paid directly to the Council by the financial institution at the time of the financial institution advancing the first progress payment in respect of the mortgage loan or in a manner agreed between the Council and the financial institution.

(6) The Council must, from time to time, publish the names of the financial institutions with agreements with the Council to facilitate payment as contemplated in this rule.

Sectional title phased payment

8. In the case of a sectional title development or a phased sectional title development, a home builder may make a direct and full payment in terms of rule 6 or make a phased payment of the enrolment fee by -

(a) paying twenty percent of the enrolment fee of all homes comprising -

(i) a sectional title development; or

(ii) a phased sectional title development;

upon submission of the enrolment form in the form of Annexure 5; and

(b) a bank guarantee for the remaining 80 percent of the enrolment fee for the development or the phase to be submitted with the enrolment form in the form of Annexure 5, to be called upon by the Council -

(i) in the case of a sectional title development on the opening of the sectional title register or six months from the date of payment of the 20 percent of the enrolment fee whichever is the earlier; or

(ii) in the case of a phased sectional title development, upon registration of the sectional title plan of extension in terms of section 25(11) of the Sectional Titles Act, 1986 (Act No. 95 of 1986), or six months from the date of payment of the 20

percent of the enrolment fee, whichever is the earlier,

together with the payment of any outstanding balance relating to any difference between the actual and the expected selling prices arising from rule 12(4) on or before the relevant conditions set out in paragraph (b)(i) or (ii) have been met.

Competent person certification of soil classification

9.(1) With every enrolment, a home builder must submit a soil classification for the plot, duly certified and signed by a competent person in the form of Section C Appendix B3 and Section D of either -

(a) the residential unit enrolment form in the form of Annexure 6; or

(b) the sectional title enrolment form in the form of Annexure 5,

as the case may be.

(2) The soil classification must be in the categories published by the Council in the Home Building Manual as applicable at the time of enrolment.

(3) Where the home is a home other than a single storey masonry home constructed on soil classification C, H, R or S, as prescribed by the Council in the Home Building Manual, the home builder must ensure that a competent person also certifies and signs Appendix B1 of the relevant form.

(4) Where the soil type is of a dolomitic or limestone nature and classified as D1, D2, D3 or D4, or the site falls within a geographical area of known dolomitic, limestone or other conditions as identified in the Home Building Manual, a home builder must comply with the Council's procedures for the technical investigation of such sites and their enrolment as prescribed in the Home Building Manual.

(5) If, during the course of a development, it emerges that the original classification of the subsoil conditions of the site by the original soil tests or as originally assessed by the competent person requires revision, the

home builder is required, as a condition of enrolment, to notify the Council immediately on the form for notification of change in site class in the form of Annexure 7.

(6) The home builder must, under the circumstances contemplated in subrule (5), ensure that the design of foundations for a home constructed on such a site is amended to conform to the revised soil classification.

Rational Design and Agrément certified systems

10.(1) For the enrolment of a home, additional information is required where a home -

(a) involves elements of rational design; or

(b) is using Agrément certified non-standardised building components, elements or systems.

(2) In the instances contemplated in subrule (1), the home builder must submit to the Council the respective forms -

(a) for the appointment of a competent person in the form of Annexure 8 or in the case of a sectional title development by the completion of the relevant part of the sectional title enrolment form in the form of Annexure 5, duly completed and signed by a competent person specifying the scope of the proposed rational design; or

(b) the accreditation of a contractor offering Agrément certified non-standardised construction in the form of Annexure 9, with a copy of the relevant Agrément certificate for building systems.

(3) Where the Council appoints a competent person registered in terms of the Engineering Profession of South Africa Act, 1990 (No 114 of 1990) to carry out further investigations that competent person must be regarded as having been appointed for the purposes of legal proceedings.

Non- Agrément certified building systems

11.(1) Home builders using non-standardised components, elements or systems that do not have an Agrément certificate must approach the Council for technical assessment of their system as an interim measure by completion of the building system registration form in the form of Annexure 10 and submission of the relevant documentation.

(2) The Council must consider such application and may -

(a) approve the system;

(b) approve the system with conditions;

(c) refer the application back to the home builder for further information to be supplied; or

(d) reject the application.

(3) When requested by the Council, the home builder must submit Agrément certification within a specified period.

(4) Where the Council appoints a competent person registered in terms of the Engineering Profession of South Africa Act, 1990 (No 114 of 1990), to carry out further investigations that competent person shall be deemed to have been appointed for the purposes of legal proceedings.

(5) Once a system is approved by the Council, the home builder may submit an application for enrolment for homes to be constructed using the approved system.

(6) An application for enrolment in terms of subrule (5) must include a form for certification by a competent person in respect of non-Agrément approved non-standardised construction in the form of Annexure 11.

Submission of enrolment documentation and payment to NHBRC

12.(1) In the case of a home built with the registration of a mortgage bond, built for cash or built in speculation of sale, the home builder must submit -

(a) the residential unit enrolment form in the form of Annexure 6, duly completed by the home builder and the competent person in terms of rules 5 and 9;

(b) proof of the selling price;

(c) payment in the form required in terms of rule 5 or if a cash bank transfer is made, proof of payment in the form of the submission to the Council of the bank deposit slip; and

(d) any other competent person certificates required in terms of rules 9, 10 and 11 and duly completed and signed by the competent person.

(2) In the case of a sectional title development or a phased sectional title development, the home builder must submit to the Council -

(a) the sectional title enrolment form in the form of Annexure 5;

(b) payment of the enrolment fee in the form required in terms of rule 6 or 8;

(c) proof of the estimated selling price in the form of the feasibility study for the development or phase of the development; and

(d) any other competent person certificates required in terms of rules 9, 10 and 11.

(3) Upon receipt of the documents specified in subrule (2), and if they are found to be in order, the Council will issue a sectional title phased payment form in the form of Annexure 12 to the home builder as proof of having accepted the home in the records of the Council.

(4) In the case of a sectional title development or a phased sectional title development, the home builder must comply with rule 8(b) and return the sectional title phased payment form with payment of the outstanding amount by bank guaranteed cheque, cash, or evidence of cash or bank guaranteed cheque bank transfer declaring the difference between actual selling prices compared with expected selling prices and make payment of the difference.

Issuing of enrolment certificates

13.(1) Where the Council has received enrolment documentation and where the application for enrolment is not complete, the Council may enter the application into the records of the Council but will record such an application as "pending".

(2) The Council will notify the home builder in writing as soon as practically possible of the information required or the reasons for the application not being accepted.

(3) If the relevant information is not received, the Council will maintain the application as "pending" on its records for a period of not less than three months.

(4) If the home builder has failed to provide the information or failed to comply with enrolment procedures within the period contemplated in subrule (3), the Council may reject the application, and notify the home builder of the reasons for such rejection.

(5) The Council prescribes the enrolment certificate in the form of Annexure 13, for the purposes of section 14(1)(c) of the Act.

Late enrolments

14.(1) Where a home builder in contravention of section 14 of the Act submits an application for the enrolment of a home to the Council after construction has started, the Council must require the home builder to satisfy the Council that the construction undertaken at the time is in accordance with the NHBRC technical requirements so as to take prudent measures, contemplated in section 16(1) of the Act, to manage

the risks pertaining to the fund.

(2) In the case of late enrolment, the home builder must supply the Council with the following duly completed documents -

(a) an enrolment form in the form of Annexure 5 or 6 as the case may be;

(b) proof of the estimated selling price;

(c) payment of the enrolment fee by direct and full payment in terms of rule 6;

(d) certification by a competent person of:

(i) the soil classification in terms of rule 9;

(ii) the design of foundations in terms of rule 9(3) and, where applicable, rule 9(4);

(iii) rational design in terms of rule 10(1)(a); and

(iv) satisfactory completion of structural work by submitting a duly completed and signed completion certificate by competent persons: satisfactory completion of structural work in the form of Annexure 14 from a competent person.

(3) The home builder must, at the request of the Council, pay an additional prescribed late enrolment fee in an amount determined by the Council for a special inspection to be undertaken by the Council to enable the inspectorate to determine compliance with the NHBRC technical requirements, prior to the acceptance of enrolment.

(4) Should any defects be detected during the course of inspection that may influence the structural integrity of the home or if it is established that there is substantial non-compliance with the NHBRC technical requirements, the Council must, prior to the acceptance of the enrolment, request rectification of such defects

or such non-compliance to be undertaken as may be necessary at the home builder's cost and under the supervision of the competent person appointed by the home builder.

(5) Where an inspector is unable to determine compliance with the NHBRC technical requirements, for whatever reason, the Council may require the home builder to appoint a competent person -

(a) to inspect the home; and

(b) to complete the competent person late enrolments report in the form of Annexure 15 to confirm compliance with the NHBRC technical requirements.

(6) Any work that needs to be exposed to enable the competent person to respond to the questions raised in terms of subrule 5(b), must be undertaken by and at the cost of the home builder.

(7) The Council may request any surety, guarantee, indemnity or other security considered reasonable by the Council to satisfy its obligations under section 16 (1) of the Act.

Non-declared Late Enrolments

15.(1) Where a home builder does not declare the fact that construction has commenced at the time of enrolment and late enrolment is detected by the Council, the Council, if it has reason to believe that such non-declaration was a deliberate attempt to avoid enrolment, or the inspection process, must require the home builder to appoint a competent person -

(a) to inspect the home; and

(b) to complete the competent person late enrolments report in the form of Annexure 15 to confirm compliance with the NHBRC technical requirements.

(2) Any work that needs to be exposed to enable the competent person to respond to questions raised in terms of rule 14(2)(d) must be undertaken by and at the cost of the home builder.

(3) Rules 14(2) to (7) apply, with the necessary changes, to homes enrolled in terms of subrule (1) and specifically the Council must charge the late enrolment fee contemplated in rule 14(3).

Disciplinary measures for late enrolment

16. (1) The Council may, subject to the provisions of section 11(1)(b) and section 11(3) of the Act, where a home builder makes itself guilty of consistent late enrolment, withdraw the registration or suspend the enrolments of the home builder.

(2) If the Council determines that a late enrolment was an attempt to avoid enrolment or the inspection process, the Council may, after notice to the home builder, suspend further enrolments in terms of section 11(3) of the Act until any corrective work has been completed on late enrolment of homes not declared to the Council.

(3) If the Council needs, in terms of section 14(4)(a) of the Act, to cancel a late enrolment not declared to the Council or reject a late enrolment declared to the Council due to non-compliance with the NHBRC technical requirements, the Council must -

(a) seek to inform the housing consumer and the relevant financial institution or provincial housing development board, in terms of section 14(5) of the Act, of the cancellation and seek to notify the housing consumer of the options available to the housing consumer;

(b) institute disciplinary proceedings against the home builder in terms of section 11 of the Act; and

(c) consider the prosecution of a home builder in terms of section 21(1) of the Act.

Notice of Non-Compliance

17.(1) In the event of any suspected non-compliance with any requirement of the Act, the Council shall give a home builder a notice of non-compliance in the form of Annexure 16, instructing the home builder to

comply with the NHBRC technical requirements or any other requirement of the Act.

(2) Within seven days of receiving a notice contemplated in subrule (1), the home builder must-

(a) commence with the work or action specified, together with any additional work or action necessary in order to ensure the home complies with the NHBRC technical requirements or other requirements of the Act; or

(b) inform the Council in writing that the home builder disputes that the work or action is necessary for the reasons set out therein, and inform the Council whether it wishes the dispute to be dealt with through the Council's internal complaints procedures in terms of section 22(3) of the Act.

(3) Where the Council appoints an engineer registered in terms of the Engineering Profession of South Africa Act, 1990 (No 114 of 1990), to carry out further investigations that engineer must be regarded as having been appointed for the purposes of legal proceedings.

Responsibilities of housing consumer and home builder regarding complaints

18.(1) A housing consumer and a home builder must seek to resolve their differences in a reasonable manner prior to referring a complaint to the Council.

(2) A housing consumer must, prior to submitting a complaint to the Council, notify the home builder in writing of his or her complaint, listing all the items requiring attention.

(3) A housing consumer must keep a copy of the letter of complaint and proof of the date it was sent to the home builder.

(4) A housing consumer must allow the home builder reasonable access to effect rectification.

(5) A housing consumer must ensure that he or she has met his or her financial obligations to the home

builder prior to reporting a complaint to the Council.

(6) Within 21 days of receiving a complaint from a housing consumer relating to the three month non-compliance period or the five year structural defects period, the home builder must in writing-

(a) confirm whether the home builder denies or accepts liability for the complaint;

(b) confirm when any rectification work will commence and finish; and

(c) where necessary, request access to effect the rectification.

(7) Within seven days of receiving a complaint from a housing consumer relating to a roof leak within the one year roof leak period, the home builder must in writing-

(a) confirm whether the home builder denies or accepts liability for the complaint;

(b) confirm when any rectification work will commence and finish; and

(c) where necessary, request access to effect the rectification.

(8) A home builder or a housing consumer, as the case may be, may refer a complaint to the Council -

(a) in the case of any complaint, if the home builder does not respond within the specified period; or

(b) if the home builder fails to honour its obligations, or

(c) if there is a dispute which cannot be resolved between the home builder and the housing consumer regarding the extent of the home builder's liability to carry out rectification.

Acceptance of complaint

19.(1) It is not necessary for a housing consumer to employ the services of an attorney or other professionals, including engineers, to lodge a complaint with the Council and costs incurred by the housing consumer for such services are not recoverable from the Council.

(2) On receipt of a complaint the Council will carry out a preliminary assessment of the complaint based on the information provided by the housing consumer and may request further information from the housing consumer to assist it in considering the complaint.

(3) A complaint must be lodged on a complaint form in the form of Annexure 17.

(4) Where the housing consumer holds retention monies, the Council may request that such monies be deposited with the Council until such time as the recommendation of the Council is issued.

(5) The Council may make it a condition of accepting a complaint that the housing consumer must honour any finding of the Council regarding retention monies.

(6) The Council will accept a complaint from a home builder where the home builder has obtained the written consent of the housing consumer thereto and the home builder pays a conciliation fee.

Processing complaints relating to section 13(2)(b)

20.(1) For the purposes of considering a complaint relating to the deemed warranty obligations in terms of section 13(2)(b) of the Act, the housing consumer must submit to the Council -

(a) proof of the original occupation date of the home;

(b) proof of notification to the home builder within the applicable time periods set out in section 13(2)(b) of the Act; and

(c) a complete list of the items requiring attention notified to the home builder.

(2) Where the Council is of the view that the complaint falls within the ambit of section 13(2)(b) of the Act, or where the Council is satisfied that the housing consumer has informed the home builder of his or her complaint, and the home builder has not responded as required in terms of rule 18, the Council must notify the home builder of -

(a) the complaint;

(b) the relevant provisions of the Act; and

(c) the specified period within which the Council requires a response to the complaint,

and request the home builder's assistance in resolving the matter.

(3) If the Council determines that the complaint does not fall within the ambit of section 13(2)(b) of the Act, it will notify the housing consumer of its decision and its reasons in respect thereof in writing.

Complaints relating to three month non-compliance period

21.(1) If the nature of the complaint relates to matters contemplated in section 13(2)(b)(ii) of the Act which have been notified within three months of occupation, the Council will seek to resolve the complaint telephonically and through correspondence with the home builder.

(2) Should a home builder fail to respond within one month of notification from the Council, the Council may issue a request for conciliation in the form of Annexure 18 to the housing consumer, requesting confirmation of the details of the complaint and payment of the prescribed conciliation fee.

Complaints relating to one year roof leak period

22.(1) If a housing consumer experiences a roof leak in the home within one year of occupation and the home

builder has failed to respond to the complaint notified to it by the housing consumer, the Council will notify the home builder and seek an immediate response from the home builder.

(2) Should the home builder fail to respond within seven days of notification in terms of subrule (1), the Council may issue a request for conciliation in the form of Annexure 18, requesting confirmation of the details of the complaint and may request payment of the prescribed refundable conciliation deposit by the housing consumer.

(3) The conciliation deposit will be refunded once the complaint has been dealt with in terms of rules 25 to 31, unless the complaint is found by the Council to be frivolous.

Complaints relating to five year major structural defects period

23.(1) Where a complaint from a housing consumer relates, in the opinion of the Council, to a possible major structural defect, the Council may seek the home builder's response but the Council may issue the housing consumer immediately with a request for conciliation in the form of Annexure 18, and may request the prescribed refundable conciliation deposit from the housing consumer.

(2) The conciliation deposit will be refunded once the complaint has been dealt with in terms of Rules 25 to 31, unless the complaint is found by the Council to be frivolous.

Contractual Disputes

24.(1) If a housing consumer refers a complaint to the Council relating to a matter contemplated in section 13(1), 13(2)(a) or 13(6) of the Act the Council may -

(a) accept the complaint in terms of rule 19;

(b) refer the parties to arbitration in accordance with the procedures set out in rule 29; or

(c) refuse to deal with such dispute in terms of paragraph (a) or (b) and refer the parties to

their rights under section 13(2) of the Act for the matter to be resolved through normal court proceedings.

(2) The council may request the housing consumer for reasonable proof to substantiate the complaint.

(3) Where the Council is of the view that the complaint falls within the ambit of subrule (1), and the Council is satisfied that the housing consumer has, where possible, informed the home builder of his or her complaint, and the home builder has not responded within 21 days, the Council will notify the home builder of -

(a) the complaint;

(b) the relevant sections of the Act;

(c) the specified period within which the Council requires a response to the complaint,

and request the home builder's assistance in resolving the matter.

(4) Should the Council determine that the complaint does not fall within the ambit of subrule (1), it will notify the housing consumer of its decision and its reasons in respect thereof in writing.

(5) Should the home builder fail to respond within 21 days of notification from the Council, the Council may issue a request for conciliation in the form of Annexure 18, requesting confirmation of the details of the complaint.

(6) If the Council receives a complaint in terms of section 13(7) of the Act, it may accept the complaint in terms of this rule: Provided that -

(a) the home builder must respond to the Council within seven days; and

(b) the Council may, at its discretion, issue a request for conciliation immediately on receipt of such complaint.

(7) The Council may request the prescribed -

(a) conciliation deposit for complaints in relation to section 13(2)(a)(ii) and section 13(6) and (7) of the Act; or

(b) conciliation fee for complaints relating to section 13(1) and 13(2)(a)(i) and (iii).

(8) If the complaint accepted in terms of subrule (6) relates to section 13(7) of the Act and there are reasonable grounds for prosecution after investigation, the Council will consider taking legal action in terms of section 21 of the Act.

Request for Conciliation

25.(1) Where the Council, after having received a signed copy of the Request for Conciliation from the housing consumer or the home builder in the form of Annexure 18 under the circumstances set out in rules 21, 22, 23 and 24 and the Council is of the view that it is necessary or desirable to carry out an on-site conciliation, the Council will propose three alternative dates and times for an on-site conciliation.

(2) Should none of the dates suit the home builder, the conciliation inspection will proceed on a date convenient to the housing consumer.

(3) The date and time will be notified by the Council to both parties.

(4) Where the home builder is unable to attend, the home builder will be notified -

(a) of the date and time of the inspection;

(b) that the home builder is entitled to have a representative attend the inspection;

(c) that the home builder will be provided with a report of the inspection; and

(d) that the home builder will be obliged to carry out any rectification recommended in the report within a specified period.

Investigation

26.(1) The Council must on the date contemplated in rule 25(3), inspect the home and assess the complaint in terms of the Act.

(2) Where further investigation is required to complete the report, the Council may request the home builder to do so within a specified period or the Council may carry out the investigations that may be necessary.

(3) Where the Council appoints a competent person registered in terms of the Engineering Profession of South Africa Act, 1990 (No 114 of 1990) to carry out further investigations, that competent person must be regarded as having been appointed for the purposes of legal proceedings.

Report

27.(1) Following the on-site conciliation and any further investigation undertaken, the Council will draw up a report –

(a) detailing the items that require rectification by the home builder to meet the home builder's obligations under the Act; and

(b) specifying the date by which such work must commence and be completed.

(2) The contents of the report will be notified to both the housing consumer and the home builder, and the home builder must, subject to the provisions of section 22 of the Act, effect the rectification specified in the report.

Requests for assistance from Fund

28.(1) Subject to the provisions of section 17 of the Act, the Council will pay for rectification only when -

(a) the report contemplated in rule 27 has been finalised and the contents notified; and

(b) a home builder or any person contemplated in section 10(5) of the Act have been required to meet their respective obligations and have failed to do so within the period determined by the Council; or

(c) the Council has confirmed that the home builder is no longer in existence.

(2) If the home builder disputes the findings and recommendations of the report contemplated in rule 27 and declares a dispute in terms of section 22(1) or (3) of the Act, the Council will proceed with the rectification of any major structural defect recommended in the said report, subject to the final determination of liability for the costs of rectification which shall be part of the dispute referred to in terms of section 22(1) or (3) of the Act.

Referral of complaint to arbitration

29.(1) The Council may, subject to subrules (2), (3), (4) and (5), submit any complaint received by it in terms of section 13 of the Act to arbitration.

(2) A housing consumer and a home builder may, for purposes of resolving any dispute in terms of section 13 of the Act, by written agreement between the parties refer the dispute to arbitration.

(3) The nature of the dispute to be resolved must be specified in an agreement between the parties that will constitute a submission to arbitration by a single arbitrator in terms of and subject to the Arbitration Act, 1965 (Act No. 42 of 1965).

(4) The parties may agree on an arbitrator or may request the Council to appoint an arbitrator.

(5) Should the parties fail to agree on an arbitrator, the Council will appoint the arbitrator.

(6) The fees of an arbitrator appointed by the Council will be in accordance with the tariffs determined by the Council from time to time.

(7) An arbitrator, in conducting the proceedings, must be guided by the intention to provide an effective, speedy and affordable mechanism to resolve disputes between home builders and housing consumers.

(8) An arbitrator may require the security that he or she may consider appropriate regarding the payment of costs, and may make any order as to the payment of costs as he or she may deem fit.

(9) The parties may, by agreement in writing, instruct the arbitrator to limit the proceedings to an investigation and an expert opinion by the arbitrator in respect of the item complained of, which opinion shall be binding on the parties: Provided that -

(a) the parties agree in writing to be bound by such opinion; and

(b) that procedure must only be followed where there is agreement in writing between the parties and the arbitrator regarding the arbitrator's technical competence, experience and expertise pertaining to the matter under dispute so as to express an expert opinion on the matter.

Referral to internal complaints procedure, arbitration and Public Protector

30.(1) A housing consumer or a home builder wishing to have a decision or action of the staff of the Council or its agents reviewed in terms of the Council's internal complaint procedure must notify the Council in this regard within 30 days of receiving notice of the relevant decision or action.

(2) The notice referred to in subrule (1), must -

(a) set out all the relevant details of the disputed action or decision; and

(b) indicate the basis on which the decision or action is disputed.

(3) When notifying the Council, the housing consumer or the home builder must lodge a prescribed internal complaints deposit with the Council.

(4) The housing consumer or the home builder may request that the decision or the action be reviewed by either -

(a) the chief executive officer of the Council; or

(b) the committee,

depending on the nature of the matter.

(5) Where a complaint is referred to the committee, the committee may request security for the cost of any such review.

(6) Where the matter is reviewed by the chief executive officer, he or she must review the decision or action within 30 days of receipt of the request for a review.

(7) Following the review contemplated in subrule (6), the chief executive officer must confirm, vary or reverse the decision or action, or where the matter falls within the scope of the activities of the committee, refer the matter to the committee.

(8) Where the complaint is found to be valid, the internal complaints deposit shall be repaid to the housing consumer or the home builder, as the case may be.

(9) The housing consumer and the home builder, or both, as the case may be, must be notified of the chief executive officer's decision.

(10) The committee must consider any complaint as soon as practically possible and no later than three

months from receipt thereof by the Council.

(11) The committee may determine its own procedures for the purposes of considering a complaint.

(12) The committee may confirm, vary or reverse the decision or action of the Council's staff or its agents without the complainant thereby having any recourse to the Council.

(13) The committee may condone a failure to comply with the period of 30 days referred to in subrule (1) where it is satisfied that there are sound and substantial reasons for the failure.

(14) The committee may make any order concerning the deposit and any other direct costs relating to the investigation, including those of the Council, in considering the matter.

(15) Should a housing consumer or home builder be dissatisfied with the decision of the committee, the complainant may pursue his or her rights in terms of section 22(4) of the Act, within thirty 30 days of receipt of the committee's decision.

(16) If the aggrieved person fails to exercise its rights in terms of section 22(4), within 30 days, the decision of the committee, subject to section 22(1) of the Act, is final.

Arbitration in terms of section 22(4)(ii) of Act

31.(1) Any dispute regarding a discretion exercised by the Council must be determined with reference to the rules of administrative justice.

(2) The Council and a housing consumer or home builder may for purposes of resolving a dispute in terms of section 22(4)(ii) refer the dispute to arbitration.

(3) The nature of the dispute to be resolved must be specified in an agreement between the parties that will constitute a submission to arbitration by a single arbitrator in terms of and subject to the Arbitration Act, 1965 (Act No. 42 of 1965).

Annexure 19

Offices of Council

RANDBURG
Fernridge Office Park
5 Hunter Street
Ferndale
Randburg
2194

DURBAN
98 Davenport Road
Glenwood
Durban
4007

CAPE TOWN
Unit No. 7
Sunbird Office
Park
Pasita Street
Tyger Valley
Bellville
7530

PORT ELIZABETH
40 Pickering Street
Newton Park
Port Elizabeth
6045

BLOEMFONTEIN
Unit 12 Brandwag Park
Cnr. McHardy/Melville Ave
Randwag
Bloemfontein
9301

NELSPRUIT
4 Jones Street
Nelspruit ext.
1201

RUSTENBURG
104 Leyd Street
Rustenburg
0299

(4) Should the parties fail to agree on an arbitrator, the Director General : Department of Housing must appoint the arbitrator.

(5) The arbitrator may require the security from the home builder or housing consumer that he or she may consider appropriate regarding the payment of costs and may make any order as to the payment of costs as he or she may deem fit.

(6) An arbitration in terms of this rule shall be held in Randburg or any other place that may be agreed to between the parties.

Access to documentation

32. Any person may have access to rules pertaining to the Council, the Home Building Manual or any circular issued by the Council at the offices of the Council between 8h30 and 16h00, at the offices of the Council set out in Annexure 19.

LIST OF ANNEXURES

Annexure 1	"Application for Registration –AR003"
Annexure 2	"Registration Certificate – BR002"
Annexure 3	"Competent Person Questionnaire – CP001"
Annexure 4	"Authorisation for Contractor's Payment – PA003"
Annexure 5	"Sectional Title Enrolment Form – ST003"
Annexure 6	"Residential Unit Enrolment Form – EF003"
Annexure 7	"Notification of Change in Site Class: Design of Foundations and Associated Structures – Appendix A1"
Annexure 8	"Appointment of Competent Person: Rational Design – Appendix B1"
Annexure 9	"Accreditation of Contractor Offering Agrément Certified Non-Standardised Construction – Appendix C1"
Annexure 10	"Building System Registration Form – BS001"
Annexure 11	"Certificate by Competent Person in respect of Non-Agrément Approved Non-Standardised Construction – Appendix D2"
Annexure 12	"Sectional Title Phased Payment Form - ST001"
Annexure 13	"Residential Unit Enrolment Certificate – EC003"

Annexure 14	"Completion Certificate by Competent Person: Satisfactory Completion of Structural Work – Appendix D1"
Annexure 15	"Competent Person Late Enrolment Report"
Annexure 16	"Notice of Non-Compliance"
Annexure 17	"Complaint Form"
Annexure 18	"Request for Conciliation"
Annexure 19	"Offices of Council"

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
Web: www.nhbrc.org

Annexure 1

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

APPLICATION FOR REGISTRATION - AR003 (v1)

Note: The time taken to process the application is dependent on the thorough completion of this form. Please observe the following basic principles. Write in black pen. Print one letter per box. Take the time to complete all sections of the document and attach relevant documentation where necessary.

For office use only App No:

SECTION A: COMPANY DETAILS

Company Name

Trading Name

Postal Address

Physical Address

Postal Code **Town**

Region

○ Eastern Cape ○ Free State ○ Gauteng ○ KwaZulu-Natal ○ Mpumalanga ○ Northern Cape ○ Northern Province ○ N/West Province ○ Western Cape

Telephone Number ( ) -

Fax Number ( ) -

Cell Number

Year Started Trading

Number of Employees

Number of Houses built during last three years

Year	Number	Year	Number	Year	Number

Company Registration Number / /

VAT Registration Number

Bargaining Council Registration Number

Please attach copies of all the relevant registration documentation

Type of Company
- ☐ Close Corporation
- ☐ Partnership
- ☐ Sole Trader
- ☐ Trust
- ☐ PTY
- ☐ PLC

Main Business Area
- ☐ Home Building Developer
- ☐ Home Building Contractor
- ☐ Alterations & Additions
- ☐ Estate Agent
- ☐ General Contractor
- ☐ Subsidy Housing
- ☐ Other

How many do you want to build this year?
- ☐ 0-5
- ☐ 6-10
- ☐ 11-15
- ☐ 16-20
- ☐ 21-30
- ☐ 31-50
- ☐ 51-75
- ☐ 76-100
- ☐ 101-250
- ☐ 250-500
- ☐ 501-1000
- ☐ 1001 or more

Type of Building Done
- ☐ Single Storey
- ☐ Double Storey
- ☐ More than two Storeys
- ☐ Apartment Blocks
- ☐ Conventional Masonry
- ☐ Timber Framed (SABS 082)
- ☐ Rational Design
- ☐ Agrément Certified

Any Company using a building system (non-traditional construction) must please request a Form BS001. This document is to be completed by the company and handed in together with the AR003 application form.

SECTION B: DIRECTOR DETAILS

Please complete the following details for all Company Directors. Copies of the relevant ID book must accompany this application form.

Managing Director

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Title | Initials | Surname | Shareholding | ID Number

Qualifications

Experience

Should there be more than 7 directors, please copy this page and add the relevant directors.

Do any of the Directors have ownership links to registered NHBRC members or applicant NHBRC members? O Yes O No

If, yes, please give details

Company	Director's ID Number	Relationship

Have you or your Directors or senior management ever had a management position or stakeholding in a business which had its registration application rejected or de-registered by the Council? If, yes, please provide the following information and attach a separate schedule giving full details. O Yes O No

Company	Director's/ Senior Manager's ID Number	Position

Company	Director's/ Senior Manager's ID Number	Position

Company	Director's/ Senior Manager's ID Number	Position

SECTION C: COURT ACTIONS/ LEGAL IMPLICATIONS

Have any of the Directors, shareholders, members, trustees or senior management of the applicant been involved in any company partnership or business which has been placed under Judicial Management or Liquidation? If, yes, please provide the following information and attach a separate schedule giving full details. O Yes O No

Company	Director's/ Senior Manager's ID Number	Position

Have any of the directors, shareholders, members, trustees or senior management of the applicant been involved in any company partnership or business which has had its/their fidelity fund certificates withdrawn by the Estate Agent's Board? If, yes, please provide the following information and attach a separate schedule giving full details. O Yes O No

Company	Director's/ Senior Manager's ID Number	Position

Is any legal action instituted against you presently pending as the result of alleged construction defects? If yes, please attach a schedule giving details. O Yes O No

Have any cases of legal action instituted against the applicant been settled out of court/ decided in court in the two years prior to the date of application? If yes, please attach a schedule giving details. O Yes O No

If at any point, a complaint is made against your company and investigation reveals that the above is inaccurate, this may lead to you being de-registered.

SECTION D1: BANK REFERENCE

Your bank will be approached to provide a credit rating. A cheque account is essential for this purpose rather than a savings account. A letter from your bank outlining the scope of your general banking facilities may speed up this application process.

Bank | **Branch** | **Clearing Number** (- -)

Account Number ☐ Cheque ☐ Savings ☐ Transmission

Account Number ☐ Cheque ☐ Savings ☐ Transmission

Name of Manager | **Telephone Number** ( ) - | **Fax Number** ( ) -

SECTION D2: CLIENT REFERENCES

Give the names of THREE people for whom you have completed building work (preferably new homes if you have built any). These people may be asked for their views on your quality of work. For speedy processing a working hours contact telephone number is most helpful.

Title **Initials** **Surname** | **Day Telephone Number** ( ) - | **Evening Telephone Number** ( ) -

Physical Address | **Town**

Postal Address | **Town** | **Code**

Date Completed - - | **Price of Contract** R -

Title **Initials** **Surname** | **Day Telephone Number** ( ) - | **Evening Telephone Number** ( ) -

Physical Address | **Town**

Postal Address | **Town** | **Code**

Date Completed - - | **Price of Contract** R -

Title **Initials** **Surname** | **Day Telephone Number** ( ) - | **Evening Telephone Number** ( ) -

Physical Address | **Town**

Postal Address | **Town** | **Code**

Date Completed - - | **Price of Contract** R -

SECTION D3: SUPPLIER REFERENCES

Give the names of THREE suppliers that you use on a regular basis, who can comment on your credit worthiness and the quantities of your material purchases. If you purchase cash only, please attach copies of three recent invoices.

Title | Initials | Surname | Telephone Number

Company | Fax Number

Physical Address | Town

Postal Address | Town | Code

Title | Initials | Surname | Telephone Number

Company | Fax Number

Physical Address | Town

Postal Address | Town | Code

Title | Initials | Surname | Telephone Number

Company | Fax Number

Physical Address | Town

Postal Address | Town | Code

SECTION D4: PROFESSIONAL REFERENCES

Give the names of TWO professionals you use on a regular basis, who can comment on your reputation and quality of your work.

Title | Initials | Surname | Telephone Number

Company | Fax Number

Physical Address | Town

Postal Address | Town | Code

Title | Initials | Surname | Telephone Number

Company | Fax Number

Physical Address | Town

Postal Address | Town | Code

An example of a professional reference would be a building inspector, an architect, a quantity surveyor or TLC inspector

SECTION E: TECHNICAL MANAGEMENT OR CONTROL

All registered members must maintain adequate levels of technical control to monitor and maintain construction quality. These persons may be approached to explain the technical management control systems in your company. This applies to development companies as well as to contracting companies.

The Person responsible for Construction Quality in Your Company

ID No.

Title | Initials | Surname | Position

Telephone Number ( ) - | Fax Number ( ) - | Cell Number

Qualifications

Experience

Has this person received a copy of the Home Building Manual? ○ Yes ○ No

On Registration your company will be obliged to meet these requirements. Please ensure he has this document and takes appropriate action in sufficient time.

The Engineering Firms you Normally use for Engineers Foundation Design and Certificates.

Foundation design is an important component of NHBRC's Home Building Manual (see Part 1, Section 2) and Dwelling Enrolment Procedures. Please provide the relevant engineers' details.

Title | Initials | Surname | Telephone Number ( ) -

Company | Fax Number ( ) -

Physical Address | Town

Postal Address | Town | Code

Title | Initials | Surname | Telephone Number ( ) -

Company | Fax Number ( ) -

Physical Address | Town

Postal Address | Town | Code

The Contractors you normally use if you are a Developer

Title | Initials | Surname | Telephone Number ( ) -

Company | Fax Number ( ) -

Postal Address | Town | Code

Title | Initials | Surname | Telephone Number ( ) -

Company | Fax Number ( ) -

Postal Address | Town | Code

Please provide on a separate schedule an explanation of how you monitor the construction quality of your contractors.

SECTION F: AFTER SALES CUSTOMER SERVICE/ NHBRC CONTACT

All registered members are obliged to meet their obligations to housing consumers and the Council in terms of the Housing Consumer Protection Measures Act.

The Person responsible for After Sales Customer Service in Your Company

ID No.

Title | Initials | Surname | Position

Telephone Number ( ) - Fax Number ( ) - Cell Number

Qualifications

Experience

The Person who will be the main NHBRC contact?

ID No.

Title | Initials | Surname | Position

Telephone Number ( ) - Fax Number ( ) - Cell Number

Qualifications

Experience

SECTION G: PAYMENT DETAILS

To process your application, a payment of R750 must be received. If it is not received, your application will not be processed. This application fee is non-refundable. You may wish to pay the annual registration fee (an additional R600-00) at the same time. This will assist in speeding up the process once your application is approved. If your application is rejected, this annual registration fee will be refunded.

Payment may be made either by cash, cheque or direct deposit into the NHBRC's account. Please attach either the payment or proof of the direct deposit to this Application form.

Bank: ABSA, Braamfontein branch, Johannesburg
Account Number: 4044649331 **Branch Number:** 63060502

SECTION H: DECLARATION

I, the undersigned, being duly authorised to sign this application, hereby certify that the information provided in this document is accurate and complete as at the date of application.

I, on behalf of the applicant,understand that it is an offence in terms of Section 21 of the Housing Consumer Protection Measures Act to knowingly withhold information or to furnish information that I know to be false or misleading required in terms of this Act. I also know that on conviction of such an offence, I, or the directors, trustees, managing members or officers of the applicant home builder may be subject to a fine not exceeding R25 000 or to imprisonment not exceeding one year on each charge.

I understand that the applicant home builder must comply with the terms of the Housing Consumer Protection Measures Act and any subsequent Regulations issued in terms of this Act.

I hereby authorise the Council to make such enquiries as necessary to verify the information contained on this form.

I attach my application fee.

Signature of Authorised Representative of Applicant

Please Print Name

Position

Date Completed d d - m m - y y y y

SECTION I: FINANCIAL

The NHBRC requires some financial details of your company in order to assess your day to day business operations.

What was your turnover during the previous three years?

Year1	Year2	Year3	Expected Turnover for Current Year
R , ,	R , ,	R , ,	R , ,

Trading Profit or loss in the last three years:

Year1	Year2	Year3
R , ,	R , ,	R , ,
☐ Profit ☐ Loss	☐ Profit ☐ Loss	☐ Profit ☐ Loss

Please attach a one page schedule detailing your current fixed assets and liabilities. If available, the previous three years' financial statements and/ or your business plan should also be attached to the application form.

SECTION J: GUARANTEES

Is your Company a Subsidiary? ○ **Yes** ○ **No**

All subsidiaries require a Parental Company Guarantee. The Parental Company Guarantee is a letter signed by an authorised official of the Parent company, agreeing to take responsibility for any warranty obligations of the subsidiary should that subsidiary company default. This letter, on the parent company letterhead, must accompany your application.

Parental Company Name

Contact Person (Title & Name)

Parental Company Registration Number

Telephone Number ( ) -

Fax Number ( ) -

Registered Address

Town

Code

SECTION K: TRADE ASSOCIATIONS

Name of Trade Association

Member's Initials

Member's Surname

Membership Number

DOCUMENTS ATTACHED

Have you attached all necessary documents to this application? Please tick each box where necessary.

Copy of ID documents of all Directors?	☐	Copy of Registrar of Companies registration documents?	☐
Copy of VAT registration certificate?	☐	Copy of Industrial Council Registration Certificate?	☐
Any schedules requested by the NHBRC?	☐	Copies of invoices if you purchase cash only from suppliers?	☐
Financial Statements/ Business Plan?	☐	Parental Guarantee?	☐
Copy of cancelled cheque?	☐		

FOR NHBRC OFFICE USE ONLY

Application Fee ○ Cheque Received ○ Cash Received ○ Deposit Slip Received

Membership Fee ○ Cheque Received ○ Cash Received ○ Deposit Slip Received

Home Building Manual ○ Cheque Received ○ Cash Received ○ Deposit Slip Received

Receipt of Documents ○ Regional Office ○ Post ○ Central Office ○ Courier

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

CERTIFICATE

This is to certify that

NHBRC™ Registration Number:

Has been admitted as a HOME BUILDER to the Register of the

NATIONAL HOME BUILDERS REGISTRATION COUNCIL™

Registered Home Builders are required to comply with their obligations to housing consumers and the NHBRC™ under the terms of the Housing Consumers Protection Measures Act, 1998.

This Certificate is valid for a period of one year.

Date Issued: Expiry Date:

Managing Director

BR002

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902

Annexure 3

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

COMPETENT PERSON QUESTIONNAIRE - CP001(v1)

Please complete this form by writing in black pen, one letter per block.

Initials | Surname | Id No.

Company

Postal Address

Town | Code

Region

○ Eastern Cape ○ Free State ○ Gauteng ○ KwaZulu-Natal ○ Mpumalanga ○ Northern Cape ○ Northern Province ○ N/West Province ○ Western Cape

Telephone No ( ) | Fax No ( ) | Cell No

Year Started | Qualifications | Type of Engineer (eg. Civil, Pr Tech, Geologist, etc.)

To which institutions do You Belong? | Membership No

ECSA Reg Number / (y y) | Nat. Sci. Prof. Reg. Number

Insurance Details - Please note that you will be required to update this information with the NHBRC annually.

Name of Insurer

Insurance Certificate Number | Insurance Amount R -

Insurance Start Date - - | Insurance End Date - -

Signature

Date - - (d d m m y y y y)

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
Web: www.nhbrc.org

Annexure 4

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

AUTHORISATION FOR CONTRACTOR'S PAYMENT - PA003 (v1)

I/ WE — Title | Initials | Surname

the borrower/s and purchaser/s of — Unit | Stand

Township | Ext

Region (Colour in one only)

○ Eastern Cape ○ Free State ○ Gauteng ○ KwaZulu-Natal ○ Mpumalanga ○ Northern Cape ○ Northern Province ○ N/West Province ○ Western Cape

UNDERSTAND THAT:

a) Registration Number R

Contact Person

Company Name

Telephone - Fax -

has undertaken to enrol the above home with the NHBRC in terms of Section 14(1) of the Housing Consumer Protection Measures Act.

THEREFORE:

I/We hereby authorise — Name of Bank | Branch | Branch Code

Bond Account Number

Selling Price R , , -

1.3% Fee R , , -

to make a payment of 1.3% of the selling price, this being the registered home Builder's enrolment fee, directly to the NHBRC at United Bank, Braamfontein branch, account number 4045581790. The enrolment fee has been calculated in terms of the fees prescribed by the NHBRC under GN ... of ... 1999.

I / WE ACCEPT:

a) Selling price is defined as: i) in the case of a deed of sale, the total selling price or purchase price as determined by the deed of sale including VAT; ii) in the case of a building contract, the contract price (including VAT) as determined in the building contract, together with the price at which the serviced erf has been acquired. Proof of selling price must be attached. This can be: i) building contract and deed of sale of serviced erf or ii) deed of sale;
b) that such amount will be paid to the NHBRC at the time the first progress payment is processed;
c) that should I/we believe that I/we have a claim in respect of a major structural defect in relation to my/our residential unit, such claim will be against the Home Builder. However, I/we understand that should the registered Home Builder fail to comply with its warranty obligations in terms of Section 13(2)(b)(i the Housing Consumers Protection Measures Act, I/we may approach the NHBRC and make a claim in terms of Section 17(1) of the abovementioned Act.

Signed at — on d d / m m / y y y y

Signature of Home Builder

Signature of Borrower/s

Work Telephone Number ( )

( )

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
Web: www.nhbrc.org

Annexure 5

NATIONAL HOME BUILDERS REGISTRATION COUNCIL

SECTIONAL TITLE ENROLMENT FORM - ST003 (v1)

Please complete all blocks individually. Write in black pen. Please submit 15 days prior to construction start.

SECTION A: HOME BUILDER DETAILS

Registration Number R

Company Name

Signature

Date d d / m m / y y y y

SECTION B: PROPERTY DETAILS

Development Name

Stand Number

Estimated Start Date d d / m m / y y y y

Phase

Township Name

Ext

Occupation Date d d / m m / y y y y

Estimated Completion Date d d / m m / y y y y

Region ○ Eastern Cape ○ Free State ○ Gauteng ○ KwaZulu-Natal ○ Mpumalanga ○ Northern Cape ○ Northern Province ○ N/West Province ○ Western Cape

SECTION C: BANK GUARANTEE

Bank

Branch

Branch Number - -

Estimated Guarantee Amount R , , -

Bar Code Label Appendix B3

Bar Code Label Appendix B1

SECTION D: COMPETENT PERSON DETAILS (Please read reverse of page before signing)

Competent Person Name *(Print Name)*

Signature

Date Competent Person Signed d d / m m / y y y y

Competent Person Name *(Print Name)*

Signature

Date Competent Person Signed d d / m m / y y y y

Property Details

Unit	Est. Selling Price	Est. Enrolment	1	2	3	4	Appendix B3	Appendix B1
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8

Property Details

Unit	Est. Selling Price	Est. Enrolment	1	2	3	4	Appendix B3	Appendix B1
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8

Property Details

Unit	Est. Selling Price	Est. Enrolment	1	2	3	4	Appendix B3	Appendix B1
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8
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	R , ,	R ,					/	O RD1 O RD2 O RD3 O RD4 O RD5 O RD6 O RD7 O RD8 O RD9 O RD10 O RD11 O RD12 O RD13 O F3 O F4 O F5 O F6 O F7 O F8

Property Details

Unit	Est. Selling Price	Est. Enrolment	1	2	3	4	Appendix B3	Appendix B1
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8
	R , ,	R ,					/	○ RD1 ○ RD2 ○ RD3 ○ RD4 ○ RD5 ○ RD6 ○ RD7 ○ RD8 ○ RD9 ○ RD10 ○ RD11 ○ RD12 ○ RD13 ○ F3 ○ F4 ○ F5 ○ F6 ○ F7 ○ F8

Total Selling Price	Total Enrolment Fee	Total of 20% of levy
R , , -	R , , -	R , -

(Totals to be completed on this page)

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
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Web: www.nhbrc.org

Annexure 6

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

RESIDENTIAL UNIT ENROLMENT FORM - EF003(v1)

Please complete all blocks individually. Write in black pen. Please submit 15 days prior to construction start.

Part 1: Sections A and B - to be completed by the Home Builder

SECTION A: HOME BUILDER DETAILS

Registration Number: R

Company Name:

SECTION B: PROPERTY DETAILS

Unit No. (Cluster Development Only):

Stand:

Township Name:

Ext

Selling Price: R , ,

Enrolment Fee: R , -

Estimated Start Date: d d / m m / y y y y

Please colour in one item per box below.

Region
- ○ Eastern Cape
- ○ Northern Cape
- ○ Free State
- ○ Northern Province
- ○ Gauteng
- ○ N/West Province
- ○ KwaZulu-Natal
- ○ Western Cape
- ○ Mpumalanga

Enrolment Method
- ○ Speculative - Cash Payment
- ○ Plot and Plan - PA003
- ○ Cluster Development - Cash Payment
- ○ Cluster Development - PA003

Estimated Completion Date: d d / m m / y y y y

Estimated Occupation Date: d d / m m / y y y y

Home Builder Representative *(Print Name)*:

Signature:

Date: d d / m m / y y y y

Storeys	Type	System	Subsidy

No Storeys: *(how many storeys does the building have)* 1 - Single; 2 - Double; 3 - 3 or More
Type: *(what type of building is being erected)* A - Detached; B - Semi-detached; C - Terraced; D - Apartments
System: *(what type of building method)* Z - Traditional Masonry; Y - Timber Framed; X - Building System; W - Other
Subsidy Type: *(what kind of subsidy)* S - Capital Housing Subsidy with Mortgage Bond; M - Capital Housing Subsidy with Microloan; N - No Capital Housing Subsidy

Part 2: Sections C and D - to be completed by the Competent Person

SECTION C: APPENDIX DETAILS

Tick the applicable soil class and/or Dolomite soil class. See reverse of this page for instructions on Dolomite soil classes.

Appendix B3 (Appointment of Competent Person: Soil Classification of Site)

☐ C ☐ H ☐ R ☐ S ☐ C1 ☐ C2 ☐ C3 ☐ H1 ☐ H2 ☐ H3 ☐ S1 ☐ S2 ☐ P

☐ D1 ☐ D2 ☐ D3 ☐ D4

SECTION D: COMPETENT PERSON DETAILS

Competent Person Note:
Please read the notes on reverse of this document thoroughly. By appending the bar code label to this document you are accepting all the conditions mentioned.

Bar Code:

Competent Person Name *(Print Name)*:

Signature:

Date Competent Person Signed: d d / m m / y y y y

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
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PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
Web: www.nhbrc.org

Annexure 7

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

APPENDIX A1 - (Notification of Change in Soil Class: Design of Foundations and Associated Structures) (v1)

Please complete all blocks individually. Write in black pen.

SECTION A: HOME BUILDER DETAILS

Registration Number

R | | | | | |

Company Name

SECTION B: PROPERTY DETAILS

Unit

Erf

Township

Ext

Region (Please tick one item only)

O Free State O Gauteng O KZ-Natal O Mpumalanga O N/ Cape O N/West Province O W/ Cape O E/ Cape O N/ Province

SECTION C: SOIL CLASS CHANGES

Previous Soil Class

/

Revised Soil Class

/

Only complete the second set of blocks for dolomite class soils, or when two soil classes are required.

SECTION D: CONDITIONS & COMPETENT PERSON DETAILS

The Competent Person mentioned below has been appointed by the Home Builder and has reclassified the above-mentioned site.

A separate report may be required to accompany this notification.

Competent Person Note:
By appending the bar code label to this document you are accepting all the conditions mentioned.

Bar Code

Competent Person Name

Signature

Date Competent Person Signed / / (d d / m m / y y y y)

Home Builder Representative

Signature

Date Home Builder Signed / / (d d / m m / y y y y)

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
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Randburg 2125

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Annexure 8

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

APPENDIX B1 - (Appointment of Competent Person: Rational Design) (v1)

Please complete all blocks individually. Write in black pen.

SECTION A: HOME BUILDER DETAILS

Registration Number R [ ][ ][ ][ ][ ]

Company Name [ ]

SECTION B: PROPERTY DETAILS

Unit [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ]

Stand [ ]

Township [ ]

Ext [ ][ ][ ][ ][ ][ ][ ]

Region (Please tick one item only)

○ Free State ○ Gauteng ○ KZ-Natal ○ Mpumalanga ○ N/ Cape ○ N/West Province ○ W/ Cape ○ E/ Cape ○ N/ Province

SECTION C: APPENDIX DETAILS

○ RD1	○ RD5	○ RD9	○ RD13	○ F6
○ RD2	○ RD6	○ RD10	○ F3	○ F7
○ RD3	○ RD7	○ RD11	○ F4	○ F8
○ RD4	○ RD8	○ RD12	○ F5	

Please see reverse of this sheet for a full explanation of each rational design. You may select more than one item.

SECTION D: CONDITIONS & COMPETENT PERSON DETAILS

1. The competent person mentioned below has been appointed by the Home Builder and undertakes to accept responsibility for providing the Home Builder and the NHBRC's Inspectorate with such drawings, details and particulars as may be required in terms of its requirements as set out in the Home Building Manual. In so far as suchdrawings, details and particulars may refer to work of a structural nature, such person has further undertaken to inform the NHBRC's Inspectorate if it appears that any structural work is being carried out in a manner which may endanger the structural integrity of the building or any adjoining building or structure.
2. Should the above appointment be terminated before construction of the work is completed, the Home Builder and the Competent Person undertake to inform the NHBRC accordingly and, where necessary, the Home Builder undertakes to make a new appointment.
3. The abovementioned competent person also undertakes to comply with the Building Standards Act 103 of 1977 (as amended), and specifically the completion of the Form referred to in Regulation A19 for the local Authority.

Competent Person Note:
Please read the above conditions thoroughly. By appending the bar code label to this document you are accepting all the conditions mentioned.

Bar Code

[ ]

Competent Person Name [ ]

Signature [ ]

Date Competent Person Signed [ ][ ] / [ ][ ] / [ ][ ][ ][ ] (d d / m m / y y y y)

Home Builder Representative [ ]

Signature [ ]

Date Home Builder Signed [ ][ ] / [ ][ ] / [ ][ ][ ][ ] (d d / m m / y y y y)

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
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Annexure 9

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

APPENDIX C1 - (Accreditation of Contractor offering Agrément Certified Non-Standardised Construction) (v1)

Please complete all blocks individually. Write in black pen.

SECTION A: HOME BUILDER/ LICENSEE DETAILS

Registration Number

R [ ][ ][ ][ ][ ] Company Name [ ]

SECTION B: PROPERTY DETAILS

Unit [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ]

Stand [ ]

Township [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][

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Annexure 10

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

BUILDING SYSTEM REGISTRATION FORM - BS001 (v1)

This form is to be completed by any builder who is constructing houses in any manner other than standard traditional masonry construction

For office use only App No:

SECTION A: HOME BUILDER DETAILS

Name

Trading Name

Postal Address

Physical Address

Postal Code **Town**

Region

○ Eastern Cape ○ Free State ○ Gauteng ○ KwaZulu-Natal ○ Mpumalanga ○ Northern Cape ○ Northern Province ○ N/West Province ○ Western Cape

Telephone Number ( ) -

Fax Number ( ) -

SECTION B: BUILDING SYSTEM

Please choose the type of building system used and then answer all questions pertaining to the building type specified. Please attach copies of all relevant documentation.

Building System

☐ Timber Framed (SABS 082)

Are you a TFBA Member? ☐ Yes ☐ No

TFBA Membership No

First Month and Year of TFBA Membership m m / y y y y

☐ Rational Design

Please choose the Rational Design Type

☐ RD1 ☐ RD2 ☐ RD3 ☐ RD4 ☐ RD5 ☐ RD6 ☐ RD7

Refer to reverse side for Rational Design table

☐ Agrément Certified

Agrément Certified System Name

Agrément Certificate Number

Home Builder Representative

Signature

Date Home Builder Signed d d / m m / y y y y

Central Office:
Block E, Fernridge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
Web: www.nhbrc.org

Annexure 11

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

APPENDIX D2 - (Certificate by Competent Person in respect of Non-Agrément Approved Non-Standardised Construction) (v1)

Please complete all blocks individually. Write in black pen.

SECTION A: HOME BUILDER DETAILS

Registration Number

R [ ][ ][ ][ ][ ]

Company Name [ ]

SECTION B: PROPERTY DETAILS

Unit [ ][ ][ ][ ][ ][ ][ ][ ][ ]

Stand [ ]

Township [ ]

Ext [ ][ ][ ][ ][ ][ ][ ]

Region (Please tick one item only)

O Free State O Gauteng O KZ-Natal O Mpumalanga O N/ Cape O N/West Province O W/ Cape O E/ Cape O N/ Province

Type of System [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][ ][

Fernridge Office Park, 5 Hunter Street
Corner of Hendrik Verwoerd Drive
Ferndale, Randburg 2194

PO Box 461, Randburg 2125

Docex 96, Randburg

Telephone (011) 348-5700 / (011) 886-3636
Facsimile (011) 789-2902

Reg. No. 95/08647/08

Annexure 12

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

ST001
SECTIONAL TITLE PHASED PAYMENT
Enrolment Order No:

HOME BUILDERS DETAILS

Date Issued : 08 November 1999
Company Name: **NHBRC Registration Number:**
Contact Person: **Telephone No:** **Fax No:**

PAYMENT DETAILS

Unit No	Erf No	Township	Region	Est. Selling Price	Enrolment Fee	Payment Received
PLEASE COMPLETE THE GREY AREAS OF THE FORM.				Rev. Selling Price	Rev. Enrolment Fee	Amount Outstanding

TOTAL paid inc VAT:

TOTAL outstanding Balance:

It is essential that you recalculate the Dwelling Enrolment Fee now that the estimated selling prices will be more accurately known. Proof of selling price must be included with this form. This should be Deeds of Sales for units sold, and promotional literature from the Developer, or similar type or material, for the units unsold. Please complete the incomplete grey areas of the form.

On receipt of the final outstanding payment, the NHBRC will issue an Enrolment Certificate. This will be required by the Bond Attorney to register the bond, and to release any payment. Please ensure thet the final payment is received by NHBRC in sufficient time not to delay your draws.

CONDITIONS

1. The NHBRC has the right under the Rules to increase the fee payable if:
   a) The estimated selling price proves to be incorrect and/or
   b) The construction work does not commence within 12 months or is not completed within 2 years from the date of this application
2. The NHBRC reserves the right not to refund fees

SIGNITURE OF HOME BUILDER: _____ DATE:

The National Home Builders Registration Council (Incorporated under Section 21, not for gain)
MM Mohohlo (Chairman), JA de Ridder (Vice-Chairman), P Allsopp (Managing Director), JL Bartlett (alt), PA Beck, VR Booth* (alt), CG Cudmore (alt), JM Dunstan*, GRH Grieve, SG Hodgson, ND Kgophane, ANT Leonzius, BD Levason, MM Masoen (alt), K Mohanlal, MS Mokhethi, TT Mpela (alt), MJ Ndlovu, JM Ngobeni, FJ Nkosi (alt), PL Ntshona (alt), M Nzamalo-Nhlapo, LJ Nyambe (alt), D Paizes, DJ Porteous, JM Pretorius, RB Prisgrove, LM Ramashamole (alt), CD Roux, CJ Schlotfeldt, JD Sotuke, DR Terblanche, MA Tsele, BJ Westcott (alt)
*British

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

RESIDENTIAL UNIT ENROLMENT

CERTIFICATE

[redacted]

This Enrolment Certificate is issued by the NHBRC™ in terms of section 14(1)(c) of the Housing Consumers Protection Measures Act, 1998.

The enrolment of a home entitles the housing consumer and his/her successors' in title to apply to the NHBRC™ Fund for assistance to rectify a major structural defect in certain circumstances as laid down in section 17 of the Act.

Please refer to the back of this Enrolment Certificate for advice on housing consumer rights in terms of the Act.

EC003

Managing Director

ADVICE TO THE HOUSING CONSUMER

Your Registered Home Builder
The obligations of a registered home builder are:

- To enter into a written agreement with the housing consumer;
- To ensure the home is constructed in a workmanlike manner, is fit for habitation and is constructed in accordance with the NHBRC Technical Requirements and the terms, plans and specifications of the written agreement;
- To enrol the home with NHBRC prior to the commencement of construction;
- To rectify non-compliance with the terms, plans and specifications or any deficiency related to design, workmanship or materials notified by the housing consumer within three months of the occupation date;
- To repair roof leaks attributable to workmanship, design or materials occurring and notified by the housing consumer within twelve months of the occupation date;
- To rectify major structural defects notified by the housing consumer within five years of the date of occupation caused by non-compliance with the NHBRC Technical Requirements.

A home builder may not demand or receive a deposit from a housing consumer for the construction or sale of a home unless a written agreement has been entered into. A home builder may receive no other consideration unless the home has been enrolled with the NHBRC.

If your home builder fails to repair a major structural defect reported to him within five years of the occupation date, you have a right to seek assistance from the NHBRC Fund for rectification of this defect.

Your obligations
The housing consumer should ensure:

- a copy of the written agreement is kept;
- the contractual and financial obligations to the home builder are met;
- a record and proof of all payments made to the home builder is kept; and
- complaints to the home builder are made in writing, dated and copies must be kept.

Cancellation or Suspension of this Enrolment Certificate
The enrolment of this home cannot be cancelled after the occupation date. During construction and prior to the occupation date the enrolment:

(a) shall be automatically cancelled:
  (I) on the granting of an order by a court for the provisional liquidation or the sequestration of the home builder; or
  (II) on the withdrawal or suspension of the home builder's registration with NHBRC;

(b) may be cancelled or suspended prior to the occupation date:
  (I) if the NHBRC is not satisfied that the home has been constructed in accordance with the NHBRC Technical Requirements; or
  (II) if the home builder who enrolled the home fails to complete the home and another home builder continues to construct the home, the second home builder must contact the NHBRC to clarify his obligations to the housing consumer in terms of the Act.

On cancellation or suspension of an enrolment, the NHBRC shall seek to inform the housing consumer, his or her mortgage lender or conveyancer of the options available to him or her. The NHBRC may reinstate the enrolment of such a home within its discretion. If the enrolment is not reinstated the NHBRC shall repay the home builder or any person entitled thereto the enrolment fee less the reasonable costs incurred by the NHBRC.

If you have a complaint
A housing consumer or a home builder may refer a complaint to the NHBRC relating to the home builder's obligations. The Council shall investigate such complaints in terms of its prescribed procedures.

For more information, contact NHBRC on (011) 348-5700 or (011) 886-3636

Central Office:
Block E, Ferndge Office Park
5 Hunter Street
Cnr Hendrik Verwoerd
Ferndale 2194
PO Box 461
Randburg 2125

Tel: (011) 348-5700
Fax: (011) 789-2902
www.nhbrc.org

Annexure 14

NATIONAL HOME BUILDERS NHBRC REGISTRATION COUNCIL

APPENDIX D1

(Completion Certificate by Competent Person: Satisfactory Completion of Structural Work) (v1)

Please complete all blocks individually. Write in black pen.

SECTION A: HOME BUILDER DETAILS

Registration Number **Company Name**

R [ ][ ][ ][ ][ ] [ ]

SECTION B: PROPERTY DETAILS

Unit [ ][ ][ ][ ][ ][ ][ ][ ][ ][ ]

Stand [ ][ ][ ][ ][ ][ ][ ][ ][ ][

COMPETENT PERSON LATE ENROLMENT REPORT

Annexure 15

08 November 1999

NAME OF COMPETENT PERSON :

QUALIFICATIONS : **INSTITUTIONAL MEMBERSHIP :**

COMPANY NAME :

ADDRESS :

TEL NO. : **FAX NO. :** **CELL. NO. :**

PI INSURER DETAILS :

INSURER :

SUM INSURED : **INS. CERT. NO. :**

DECLARATION:

I being the Competent Person appointed by _____ of _____ has studied the NHBRC Standards and Guidelines a

can confirm: (by completing the Questionnaire)

1. Structural integrity of items observed and checked as per this report.
2. Fitness for purpose of material used by the contractor.
3. That based on the above, I have completed NHBRC Appendices B3; B2; B1 (where applicable) and D1.

SIGNATURE OF COMPETENT PERSON : **DATE :**

DETAILS OF PROPERTY

UNIT NUMBER : **ERF NUMBER :**

TOWNSHIP : **REGION :**

TYPE OF CONSTRUCTION (CONVENTIONAL / AGREMENT / RATIONAL) :

TYPE OF FOUNDATION :

NOTE ANY RATIONAL DESIGN COMPONENETS :

NAME OF REGISTERED HOME BUILDER :

NAME OF HOME OWNER :

FINANCIAL INSTITUTION NAME :

QUESTIONNAIRE TO CONFIRM STRUCTURAL INTEGRITY

1. SITE AND SURROUNDING AREA:		YES	NO
1.1	Has the site preparation been carried out to a standard that will satisfy the Home Building Manual and that will ensure no water ingress into residential structure/s?		
1.2	Has storm water management been carried out to effect quick and spontaneous run off of storm water, without causing any ponding against or next to any residential structure/s?		
1.3	Are you satisfied with the site soil classification indicated on the completed appendix B3 form as provided to the NHBRC?		
1.4	Has insitu material been used for filling?		
1.5	Do you accept the material used as suitable for filling?		
1.6	Are you satisfied that the private drainage on site has been laid accordingto the Home Building Manual?		

2. SUBSTRUCTURE:		YES	NO
2.1	Are you satisfied with the foundation solution applied and is the solution in accordance with the Home Building Manual?		
2.2	Are you satisfied that the foundation material and workmanship are of an acceptable standard to structurally withstand the applied loads?		
2.3	Has the backfilling and recompaction of the foundation trenches been done to a standard acceptable to the NHBRC?		
2.4	Does the underslab filling exceed 400 mm at the lowest point of building work on site? (B1 and D1 forms have to be completed where the fill exceeds 400 mm.)		
2.5	In the cases of a reinforced raft foundation or "slab-on-the-ground" can you confirm that the damp-proof membrane has been correctly installed and is functional?		

3. SUPERSTRUCTURE:		YES	NO
3.1	Can you confirm acceptance of the installation detail of the DPC (as per Home Building Manual) below internal and external walls and window sills?		
3.2	Can you confirm your acceptance of the structural design on the wall panels including position and sizes of openings in these wall panels as per Home Building Manual?		
3.3	Is the quality of the construction elements used in the superstructure (plaster/ mortar/ bricks/ etc.) acceptable and in accordance with the Home Building Manual?		
3.4	Can you confirm your approval of the installation of brickforce and wall ties incorporated in the superstructure, as per Home Building Manual?		
3.5	Can you confirm your acceptance on the positioning and workmanship employed in creating movement and control joints, as per Home Building Manual?		
3.6	Can you confirm that the roof anchors installed are in accordance with the Home Building Manual?		
3.7	Can you confirm that the general quality of workmanship applied is visually satisfactory and that no reason for structural distress can be observed?		

4. ROOF STRUCTURE:		YES	NO
4.1	Can you confirm your acceptance of the structural design of the roof structure, as per Home Building Manual?		
4.2	Can you confirm your acceptance of the fixing detail of the roof anchors?		
4.3	Can you confirm your satisfaction with the materials (timber size, grading, etc.) used in the roof structure, and as can be observed in the Home Building Manual?		
4.4	Can you confirm that the erection and bracing details are to a standard that will ensure structural integrity, and is in compliance with the Home Building Manual?		
4.5	Can you confirm that the roof covering has been installed in accordance with the roof covering manufacturer's recommendations?		
4.6	Can you confirm that the roof is visually satisfactory and that no reason for roof leaks can be observed?		

GENERAL NOTICE:

The NHBRC reserves the right, to at any time, call for calculations and related information that the Competent Person has applied in completing this questionnaire and, thereby, certify structural integrity.

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

Annexure 16

Block E, Fernridge Office Park
5 Hunter Street, Ferndale, 2194
Docex 96, Randburg 2196

P O Box 461, Randburg 2125
Tel (011) 348-5728, Fax (011) 789 2902

NOTICE OF NON-COMPLIANCE

NO.

Home Builder's company name | NHBRC registration no.

Unit (s) | Stand | Township | Ext.

Province | Enrolment Certificate no. (where available)

Non-Compliance Report | **Date by which compliance must be achieved**

Information to Home Builder

1. This Notice of Non-Compliance is issued in accordance with section 14(4) of the Housing Consumers Protection Measures Act.
2. The home builder must inform NHBRC in writing that he has rectified the notice of non-compliance as soon as possible and no later than the date by which compliance has been requested in the above notice.
3. NHBRC reserve the right to inspect rectification work or any other matter.
4. Should this notice not be complied with or the home builder has failed to notify NHBRC of his compliance in writing within thirty days, NHBRC may take disciplinary action including the possible suspension of enrolments or the deregistration of the home builder in terms of section 11 of the Act.
5. In extreme situations, NHBRC reserves the right to suspend enrolments in terms of section 11(3) of the Act.
6. The NHBRC may suspend or cancel in terms of section 14(4) of the Act, any enrolment on this home or homes should this Notice of Non-Compliance not be complied with.
7. The NHBRC reserves the right to inform the home owner and/or mortgage lending institution should the home builder fail to comply with this Notice or fail to inform NHBRC of his compliance in writing on or before the date stated above.

NHBRC inspector's signature | Print name

Tel No. | Cell No.

Home Builder's representative on site's signature | Print name

Capacity | ID No | Date & Time

By signing, the Home Builder's representative is accepting the Notice on behalf of the Home Building Company mentioned above.

Fernridge Office Park, 5 Hunter Street
Corner of Hendrik Verwoerd Drive
Ferndale, Randburg 2194

PO Box 461, Randburg 2125

Docex 96, Randburg

Telephone (011) 348-5700 / (011) 886-3636
Facsimile (011) 789-2902

Reg. No. 95/08647/08

Annexure 17

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

COMPLAINT FORM

Date: _____ Contact: _____

HOME OWNER DETAILS

1. Title: _____ 2. Initials: _____ 3. Surname: _____
4. Postal Address _____ Code: _____
5. Daytime Tel. No.: _____ 6. Evening Tel. No.: _____
7. Fax No.: _____ 8. Occupation: _____

Person acting on behalf of the housing consumer:

1. Name: _____ 2. Company: _____
3. Tel: _____ 4. Fax: _____
5. Postal Address: _____ Code: _____
6. Capacity in which you are representing the Home Owner: _____

FINANCIAL INSTITUTION DETAILS

1. Name of Bank: _____ 2. Branch: _____
3. Bond Account No.: _____ 4. Contact Person: _____
5. Tel. No.: _____ 6. Fax No.: _____

PROPERTY AND ADDRESS DETAILS

1. Unit No : _____ 2. Erf No.: _____
3. Street No. & Name: _____ 4. Township: _____
5. Extension: _____ 6. Region: _____
7. NHBRC Enrolment Cert. No.: _____ (where known)
8. Are you the first owner: Yes ☐ No ☐
9. Occupation date of 1st Owner: _____
10. Type of Property: _____ **(e.g. single storey, detached, etc)**

NHBRC HOME BUILDER DETAILS

1. Name: _____ 2. NHBRC Registration No.: _____
3. Postal Address: _____ 4. Tel. No.: _____
5. Fax No.: _____ 6. Contact Person: _____

DETAILS OF DISPUTE OR CLAIM

1. Type of Complaint:

- ☐ 3 month non-compliance period
- ☐ 5 year structural defect period
- ☐ Contractual Dispute
- ☐ Other (Please specify: _____)
- ☐ 1 year roof leak period
- ☐ Deposit theft

2. Please list the defects briefly, do not simply refer to other correspondence alone.

Item No.	Precise Description of Dispute or Defect (Please number each item)	Date when Damage First Seen	Please give Dates Defect(s) Notified to Builder in Writing

3. Are any retention monies held from the contract sum? Yes ☐ No ☐

If yes, how much? R

4. Has the builder responded to the complaint? Yes ☐ No ☐

What has he done to resolve the problem? Please describe: _____

Is the builder Insolvent or in suspected financial difficulty? Yes ☐ No ☐

If yes, please give details: _____

Declaration

I/ we hereby declare that the details given on this form are true and correct to the best of my/our knowledge.

I/we have given written notice of the damage or the dispute to the home builder Yes ☐ No ☐

I/we have given the home builder the opportunity to rectify Yes ☐ No ☐

Date: _____ Signature: _____

Housing Consumers Name: _____

DETAILS OF DISPUTE OR CLAIM Cont'd

2. Please list the defects briefly, do not simply refer to other correspondence alone.

Item No.	Precise Description of Dispute or Defect (Please number each item)	Date when Damage First Seen	Please give Dates Defect(s) Notified to Builder in Writing

Fernridge Office Park, 5 Hunter Street
Corner of Hendrik Verwoerd Drive
Ferndale, Randburg 2194

PO Box 461, Randburg 2125

Docex 96, Randburg

Telephone (011) 348-5700 / (011) 886-3636
Facsimile (011) 789-2902

Reg. No. 95/08647/08

Annexure 18

NATIONAL HOME BUILDERS
NHBRC
REGISTRATION COUNCIL

REQUEST FOR CONCILIATION

- Please print in block capitals
- Please complete all applicable sections
- Please attach copies of all correspondence with your builder to this form ,
- Please attach payment of the requested deposit or fee
- A copy of this form will be sent to the registered contractor

Complaint No.:

Use this number in all correspondence

Issue Date :

Issued By :

HOME OWNER DETAILS

1. **Title:**
2. **Initials:**
3. **Surname:**
4. **Occupation:**
5. **Postal Address: , Code:**
6. **Daytime Tel. No.:**
7. **Evening Tel. No.:**
8. **Fax No.:**

If you are not the home owner but are acting on his behalf, please provide your details below:

Name:
Company:
Tel:
Fax:
Postal Address:
Code:
Capacity in which you are representing the Home Owner:

NHBRC HOME BUILDER DETAILS

1. **Company Name:**
2. **NHBRC Registration No.:**
3. **Postal Address: , Code:**
4. **Tel. No.:**
   Fax No.:
5. **Contact Person:**
6. **Status:**
7. **Date of Status:**

BUILDER INSOLVENT OR IN SUSPECTED FINANCIAL DIFFICULTY

If you know or believe the builder is insolvent or in financial difficulty, please give brief details including where applicable, name and address of the Receiver/ Liquidator and any newspaper clippings or other evidence suggesting financial difficulties.

DETAILS

_____

_____

_____

DECLARATION

Enclosed please find the requested fee of

Bank deposits to United, Braamfontein branch, Current Account No. 4044649331

I/we have given written notice of the damage or dispute to the contractor: Yes _____ No _____

I/we have given the contractor the opportunity to rectify: Yes _____ No _____

I/we hereby declare that the details given on this form are true and correct to the best of my knowledge.

Name: _____ Signature: _____ Date: _____

NHBRC OFFICE USE ONLY

Received by: _____ Signature _____ Date _____

Investigation: Approved Y/N _____ Approved By (Initials) _____ Date _____

Annexure 19

Offices of Council

RANDBURG
Fernridge Office Park
5 Hunter Street
Ferndale
Randburg
2194

DURBAN
98 Davenport Road
Glenwood
Durban
4007

CAPE TOWN
Unit No. 7
Sunbird Office
Park
Pasita Street
Tyger Valley
Bellville
7530

PORT ELIZABETH
40 Pickering Street
Newton Park
Port Elizabeth
6045

BLOEMFONTEIN
Unit 12 Brandwag Park
Cnr. McHardy/Melville Ave
Randwag
Bloemfontein
9301

NELSPRUIT
4 Jones Street
NELSPRUIT EXT.
1201

RUSTENBURG
104 Leyd Street
RUSTENBURG
0299

—oOo—

No. R. 1408 1 Desember 1999

WET OP BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS, 1998

NASIONALE HUISBOUERSREGISTRASIERAAD REËLS

Die Nasionale Huisbouersregistrasieraad het kragtens artikel 7(1) van die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), die reëls in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1.In hierdie reëls het enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg word, daardie betekenis en, tensy uit die samehang anders blyk, beteken –

"Agrémentsertifikaat" 'n sertifikaat wat die aanvaarbaarheid bevestig van 'n nie gestandaardiseerde ontwerp en die voorwaardes wat daarop betrekking het, uitgereik deur die Raad van Agrément Suid-Afrika;

"arbitersgeld" die arbitersgeld voorgeskryf deur die Raad in reël 5(3) van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"bemiddelingsdeposito" die terugbetaalbare deposito voorgeskryf deur die Raad in reël 5(1) van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"bemiddelingsgeld" die gelde van toepassing op versoeke om bemiddeling voorgeskryf deur die Raad in reël 5(2) van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"BTW" belasting op toegevoegde waarde ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991);

"dag" nie ook 'n dag wat in die boubedryf se vakansietydperk val nie;

"die Wet" die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998);

"gefaseerde deeltitelontwikkeling" 'n deeltitelskema onderneem in fases soos beoog in artikel 25 van die Wet op Deeltitels, 1986 (Wet No. 95 van 1986);

"in kennis stel" in kennis stel ooreenkomstig artikel 24 van die Wet;

"inskrywingsgeld" die inskrywingsgeld voorgeskryf deur die Raad in reël 2 van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"inspektoraat" die inspekteurs aangestel of gekontrakteer deur die Raad om huisbouers te help om aan die NHBRR Tegniese Vereistes te voldoen;

"interne klagtedeposito" die deposito voorgeskryf deur die Raad in reël 5(4) van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"komitee" die dissiplinêre komitee beoog in artikel 5(1)(b) van die Wet;

"laat inskrywingsgeld" die geld vir laat inskrywings voorgeskryf deur die Raad in reël 3 van die Reëls afgekondig by Goewermentskennisgewing No. R .....van 1999;

"Minister se Regulasies" die Regulasies afgekondig by Goewermentskennisgewing No. R .....van 1999;

"Raad se geregistreerde adres" Fernridge-kantoorpark, Hunterstraat 5, Ferndale, Randburg;

"Raad van Agrément Suid-Afrika" 'n liggaam wat kragtens die delegering van die gesag van die Minister van Openbare Werke funksioneer;

"verkoopprys", in die geval van 'n koopakte, die totale verkoop- of pakketprys soos bepaal in die koopakte, insluitende BTW, en in die geval van 'n boukontrak, die kontrakprys, met insluiting van BTW, soos bepaal in die boukontrak, tesame met die prys waarteen die gedienste erf verkry is.

Prosedures vir Registrasie en verstryking van registrasie

2. (1) 'n Huisbouer wat om registrasie aansoek wil doen, moet by die Raad by die Raad se geregistreerde adres aansoek doen deur die vorm soos in Aanhangsel 1 uiteengesit, in te vul en voor te lê en die aansoekgeld deur die Minister voorgeskryf, te betaal.

(2) Die Raad moet 'n registrasiesertifikaat in die vorm van Aanhangsel 2 uitreik indien die Raad bepaal het dat die huisbouer voldoen aan die vereistes uiteengesit in artikel 10 van die Wet en die bedinge en voorwaardes uiteengesit in die Minister se regulasies afgekondig by Goewermentskennisgewing No. R ..... van ..... 1999.

(3) Die Raad moet die registrasie van 'n huisbouer op die skriftelike versoek van die huisbouer kanselleer.

(4) Indien die registrasie van 'n huisbouer ingetrek of gekanselleer word of nie hernu word nie, moet sodanige huisbouer -

(a) ophou om voor te gee 'n geregistreerde huisbouer te wees;

(b) onverwyld aan die Raad enige registrasiesertifikate of inskrywingsertifikate of reklamemateriaal terugbesorg wat na die Raad verwys of wat 'n registrasiestatus deur die Raad toegeken, impliseer; en

(c) die huisbouer daarvan weerhou om, sonder die uitdruklike skriftelike toestemming van die Raad, 'n inskrywingsertifikaat of enige ander materiaal aan 'n behuisingsverbruiker of enige ander persoon te verskaf oor 'n ingeskrewe huis wat nie bewoon is nie.

(5) Ondanks die intrekking van registrasie of versuim om registrasie te hernu moet 'n huisbouer-

(a) voortgaan om hierdie reëls na te kom ten opsigte van huise opgerig deur die huisbouer;

(b) 'n werklike of voorwaardelike verpligting nakom wat die huisbouer ten opsigte van die behuisingsverbruiker of die Raad opgeloop het;

(c) die Raad enige bedrag ingevolge hierdie reëls betaalbaar betaal, hetsy dit voor of na die datum van inwerkingtreding van die nie-hernuwing of intrekking betaalbaar word.

(6) Wanneer 'n huisbouer om watter rede ook al wil ophou om die besigheid van 'n huisbouer te bedryf, mag die huisbouer die Raad versoek om die huisbouer se verantwoordelikhede ingevolge artikel 13(2)(b)(i) ten opsigte van huise by die Raad ingeskryf te aanvaar.

(7) Die huisbouer moet die Raad in die omstandighede in subreël (6) beoog, verwittig van klagtes deur die huisbouer ontvang in verband met die huise deur die huisbouer opgerig.

(8) Indien die Raad bereid is om die verpligtinge in subreël (6) bedoel, te aanvaar, moet die Raad die huisbouer in kennis stel van die bedrag van enige voorgeskrewe betaling wat vereis word ten einde 'n moontlike eis om regstelling uit te betaal.

Inskrywings proses

3. 'n Huisbouer moet –

(a) die huis vir inskrywing voorlê 15 dae voor die aanvang van oprigting en bevestig dat die huis beskikbaar is vir inspeksie deur die Raad se inspektoraat tydens die oprigtingsproses;

(b) bevestig dat die nodige stappe deur die huisbouer geneem is soos deur die Huisbouhandleiding vereis voor die aanvang van oprigting;

(c) 'n grondklassifikasie deur 'n bevoegde persoon bevestig verskaf om te verseker dat die korrekte fondasietipe gebruik word in die oprigting van 'n huis; en

(d) waar nodig, soos deur die Huisbouhandleiding vereis, bewys verskaf van die betrokkenheid van 'n bevoegde persoon in fondasieontwerp, rasionele ontwerp, nie gestandardiseerde oprigting of ondersoek van dolomitiese of kalksteen toestande.

Bevoegde persone

4.(1) Wanneer deur die Raad versoek, moet 'n bevoegde persoon 'n verslag in die vorm van Aanhangel 3 voltooi en op bewys verskaf van sy of haar registrasie ingevolge die Wet op die Ingenieurswese professie van Suid Afrika, 1990 (Wet No. 114 van 1990), of ingevolge artikel 11 van die Wet op Natuurwetenskaplike Professies, 1993 (Wet No. 106 van 1993).

(2) Die bedrag wat by wyse van professionele skadeversekering deur 'n bevoegde persoon gehou moet word, moet minstens R500 000 beloop.

(3) Die Raad mag van 'n bevoegde persoon vereis om jaarliks die Raad van besonderhede en bewys van sy skadeversekering te voorsien.

Metodes van Betaling van Inskrywingsgeld

5.(1) Afhangende van die omstandighede mag betaling van inskrywingsgeld geskied deur –

(a) betaling van die volle inskrywingsgeld regstreeks aan die Raad soos in reël 6 uiteengesit;

(b) met instemming van die behuisingsverbruiker en die finansiële instelling, betaling aan die Raad uit gelde aan die huisbouer verskuldig deur die behuisingsverbruiker, as 'n eerste vorderingsbetaling uit die verbandlening soos in reël 7 uiteengesit; of

(c) betaling van die inskrywingsgeld in fases deur 'n huisbouer wat 'n deeltitelkompleks oprig soos in reël 8 uiteengesit.

(2) Alle betalings ten opsigte van inskrywingsgeld word gedoen aan:

Die Nasionale Huisbouersregistrasieraad
Rekeningnommer: 4045581790
Absa Bank,
Braamfontein-tak
Takkode: 630605

Regstreekse en volle betaling per bankgewaarborgde tjek of kontantbankoordrag

6.(1) Die huisbouer moet die inskrywingsgeld van die volle bedrag betaalbaar regstreeks aandie Raad betaal by wyse van 'n bankgewaarborgde tjek of 'n kontantbankoordrag, indien-

(a) die teenprestasie vir die verkryging of oprigting van die huis betaalbaar is in kontant sonder registrasie van 'n verbandlening; of

(b) huise gebou word vir spekulasieverkope; of

(c) 'n huis laat ingeskryf word ingevolge reëls 14 en 15.

(2)Betaling soos beoog in subreël (1) mag ook geskied in die geval van deeltitelhuise of huise ingevolge 'n boukontrak of enige ander vorm van ooreenkoms opgerig.

Betaling deur verbandlener as eerste vorderingsbetaling

7.(1)Die huisbouer mag onderhewig aan subreël (4) betaling van die inskrywingsgeld doen indien die behuisingsverbruiker die verbandlener magtig om die Raad te betaal uit die opbrengs van geld verskuldig aan die huisbouer deur die behuisingsverbruiker ten opsigte van die oprigting van 'n huis.

(2)Wanneer die behuisingsverbruiker toegestem het dat 'n finansiële instelling wat 'n ooreenkoms met die Raad het, sodanige betaling doen, moet die huisbouer die dokumente bedoel in reël 12(1), tesame met die magtiging in die vorm van Aanhangsel 4, aan die Raad voorlê.

(3)Betaling ooreenkomstig subreël (1) mag gedoen word slegs indien 'n boukontrak gesluit is tussen die behuisingsverbruiker en die huisbouer met betrekking tot die oprigting van 'n huis.

(4)Betaling ooreenkomstig subreël (1) mag nie gedoen word nie indien die huis 'n deeltiteleenheid is of opgerig word met die oog op spekulasieverkope, of in die geval van die laat inskrywing van 'n huis nie.

(5)Die inskrywingsgeld moet regstreeks aan die Raad betaal word deur die finansiële instelling wanneer die finansiële instelling die eerste vorderingsbetaling ten opsigte van die verbandlening voorskiet, of op 'n wyse waarop die Raad en die finansiële instelling ooreenkom.

(6)Die Raad moet van tyd tot tyd die name publiseer van die finansiële instellings met wie die Raad ooreenkomste het ten einde betaling soos in hierdie reël beoog, te vergemaklik.

Deeltitelbetalings in fases

8. In die geval van 'n deeltitelontwikkeling of 'n gefaseerde deeltitelontwikkeling mag 'n huisbouer 'n regstreekse en volle betaling maak ingevolge reël 6 of betaling van die inskrywingsgeld soos volg in fases doen deur –

(a) twintig persent van die inskrywingsgeld van alle huise bestaande uit –

(i) 'n deeltitelontwikkeling; of

(ii) 'n gefaseerde deeltitelontwikkeling;

te betaal by voorlegging van die inskrywings vorm in die vorm van Aanhangsel 5; en

(b) 'n bankwaarborg vir die oorblywende 80 persent van die inskrywingsgeld vir die ontwikkeling of die fase wat saam met die inskrywingsvorm in die vorm van Aanhangsel 5 ingedien moet word, om deur die Raad opgeroep te word -

(i) in die geval van 'n deeltitelontwikkeling, by opening van die deeltitelregister of ses maande na die datum van betaling van die 20 persent gedeelte van die inskrywingsgeld, wat ook al die vroegste is; of

(ii) in die geval van 'n gefaseerde deeltitelontwikkeling, by registrasie van die deeltitelplan van uitbreiding ingevolge artikel 25(11) van die Wet op Deeltitels, 1986(Wet No. 95 van 1986), of ses maande na die datum van betaling van die 20-persent gedeelte van die inskrywingsgeld, wat ook al die vroegste is,

tesame met die vereffening van enige uitstaande balans in verband met 'n verskil tussen die werklike en die verwagte verkoopspryse ingevolge reël 12 (4) van hierdie reëls wanneer of voordat die betrokke voorwaardes uiteengesit in paragraaf (b)(i) of (ii) nagekom word.

Sertifisering van grondklassifikasie deur bevoegde persoon

9.(1)By elke inskrywing moet 'n huisbouer 'n grondklassifikasie van die erf voorlê, behoorlik gesertifiseer en onderteken deur 'n bevoegde persoon, in die vorm van Deel C, Byvoegsel B3, en Deel D van óf –

(a) die residensiële eenheid inskrywingsvorm in die vorm van Aanhangsel 6; óf

(b) die deeltiteleenheid inskrywingsvorm in die vorm van Aanhangsel 5,

na gelang van die geval.

(2) Die grondklassifikasie moet in die kategorieë wees wat die Raad in die Huisbouhandleiding publiseer, soos van toepassing ten tyde van die inskrywing.

(3) Indien die huis nie 'n enkelverdieping-klipmesselwerkhuis opgerig op grond met die klassifikasie C, H, R of S, soos voorgeskryf deur die Raad in die Huisbouhandleiding is nie, moet die huisbouer toesien dat 'n bevoegde persoon ook Byvoegsel B1 van die betrokke vorm sertifiseer en onderteken.

(4) Indien die grondtipe van dolomitiese of kalksteenaard is en geklassifiseer is as D1, D2, D3 of D4 of indien die erf geleë is in 'n geografiese gebied met bekende dolomitiese, kalksteen- of ander toestande soos in die Huisbouhandleiding geïdentifiseer, moet die huisbouer voldoen aan die Raad se prosedures vir die tegniese ondersoek van die erwe en die inskrywing daarvan soos voorgeskryf in die Huisbouhandleiding.

(5) Indien dit in die loop van 'n ontwikkeling duidelik word dat die oorspronklike klassifikasie van die ondergrondtoestande van die terrein volgens die oorspronklike grondtoetse of soos oorspronklik geëvalueer deur die bevoegde persoon, hersiening vereis, moet die huisbouer, as 'n voorwaarde van inskrywing, die Raad onverwyld in kennis stel in die vorm vir die kennisgewing vir die verandering in erf klassifikasie in die vorm van Aanhangsel 7.

(6) In die omstandighede bedoel in subreël (5) moet die huisbouer toesien dat die ontwerp van die fondasie van elke huis wat op so 'n erf opgerig word, gewysig word sodat dit gepas is vir die hersiene grondklassifikasie.

Rasionele ontwerp en Agrément gesertifiseerde stelsels

10.(1) Bykomende inligting word vir die inskrywing van 'n huis vereis indien die huis –

(a) elemente van rasionele ontwerp bevat; of

(b) gebruik maak van Agrément gesertifiseerde nie-gestandardiseerde boukomponente, -elemente of -stelsels.

(2) In die gevalle in subreël (1) beoog moet die huisbouer die volgende vorms aan die Raad voorlê -

(a) vir die aanstelling van 'n bevoegde persoon in die vorm van Aangangsel 8, of, in die geval van 'n deeltitelontwikkeling, die voltooiing van die betrokke deel van die vorm deeltitel inskrywingsvorm in die vorm van Aanhangsel 5, behoorlik ingevul en onderteken deur 'n bevoegde persoon wat die omvang van die beoogde rasionele ontwerp aandui; of

(b) die akkreditering van 'n huisbouer wat agrément gespesifiseerde nie-gestandardiseerde oprigting aanbied in die vorm van Aanhangsel 9, met 'n afskrif van die betrokke Agrémentsertifikaat vir boustelsels.

(3) Indien die Raad 'n bevoegde persoon geregistreer ingevolge die Wet op die Ingenieursweseprofessie van Suid-Afrika, 1990 (Wet No. 114 van 1990), aanstel om verdere ondersoeke te doen, word daardie bevoegde persoon geag aangestel te wees vir die doel van regstappe.

Nie-Agrémentgesertifiseerde boustelsels

11.(1) Huisbouers wat nie gestandaardiseerde komponente, elemente of stelsels gebruik wat nie 'n Agrémentsertifikaat het nie, moet by die Raad aansoek doen om 'n tegniese evaluering van die stelsel as 'n tussentydse maatreël deur die bousisteem registrasievorm in die vorm van Aanhangsel 10 in te vul en die betrokke dokumente in te dien.

(2) Die Raad moet sodanige aansoek oorweeg en mag –

(a) die stelsel goedkeur;

(b) die stelsel op voorwaardes goedkeur;

(c) die aansoek na die huisbouer terugverwys om verdere inligting te verskaf; of

(d) die aansoek afkeur.

(3) Indien die Raad so versoek, moet die huisbouer Agrémentsertifisering binne 'n bepaalde tydperk verskaf.

(4) Indien die Raad 'n bevoegde persoon geregistreer kragtens die Wet op die Ingenieursweseprofessie van Suid-Afrika, 1990 (Wet No. 114 van 1990), aanstel om verdere ondersoeke te doen, word daardie bevoegde persoon geag aangestel te wees vir doeleindes van regstappe.

(5) Sodra 'n stelsel deur die Raad goedgekeur is, mag die huisbouer 'n aansoek om die inskrywing van die huise wat volgens die goedgekeurde stelsel opgerig gaan word, voorlê.

(6) 'n Aansoek om inskrywing ingevolge subreël (5) moet 'n vorm vir sertifisering deur 'n bevoegde persoon betreffende nie Agrément goedgekeurde nie-gestandardiseerde oprigting in die vorm van Aanhangsel 11, insluit.

Voorlegging van inskrywingsdokumente en betaling aan NHBRR

12.(1) In die geval van 'n huis opgerig met registrasie van 'n verbandakte, vir kontant of met die oog op spekulasieverkope, moet die huisbouer die volgende voorlê -

(a) die residensiële eenheid inskrywingsvorm in die vorm van Aanhangsel 6, behoorlik ingevul deur die huisbouer en die bevoegde persoon ingevolge reëls 5 en 9;

(b) bewys van die verkoopprys;

(c) betaling in die vorm vereis by reël 5 of, indien 'n kontantbankoordrag gedoen word, bewys van betaling deur voorlegging aan die Raad van die bankdepositostrokie; en

(d) enige ander sertifikate deur bevoegde persone ingevolge reëls 9, 10 en 11 vereis, behoorlik ingevul en onderteken deur die bevoegde persoon.

(2) In die geval van 'n deeltitelontwikkeling of 'n gefaseerde deeltitelontwikkeling moet die huisbouer –

(a) die deeltitel inskrywingsvorm in die vorm van Aanhangsel 5;

(b) betaling van die inskrywingsfooi in die vorm vereis ingevolge reël 6 of 8;

(c) bewys van beraamde verkoopprys in die vorm van die uitvoerbaarheidstudie vir die ontwikkeling of fase van die ontwikkeling; en

(d) enige ander sertifikate deur bevoegde persone vereis ingevolge reëls 9, 10 en 11,

aan die Raad voorlê.

(3) Nadat die Raad die dokumente beoog in subreël (2) ontvang het en indien hulle in orde is, moet die Raad die deeltitel gefaseerde betalingsvorm in die vorm van Aanhangsel 12, aan die huisbouer uitreik as bewys dat die huis in die rekords van die Raad aangeteken is.

(4) In die geval van 'n deeltitelontwikkeling of 'n gefaseerde deeltitelontwikkeling moet die huisbouer aan reël 8(b) voldoen en die deeltitel gefaseerde betalingsvorm terugbesorg, met betaling van die uitstaande bedrag, by wyse van 'n bankgewaarborgde tjek, kontant of bewys van oordrag van kontant of bankgewaarborgde tjek, en die verskil verklaar tussen die werklike verkoopprys en die beraamde verkoopprys, en daardie verskil betaal.

Uitreiking van inskrywingsertifikate

13.(1) Indien die Raad inskrywingsdokumente ontvang het en die aansoek om inskrywing nie volledig is nie, mag die Raad die aansoek in die rekords van die Raad aanteken maar moet die Raad die aansoek as "hangende" aanteken.

(2) Die Raad moet die huisbouer so gou prakties moontlik skriftelik in kennis stel van die inligting wat vereis word of van die redes waarom die aansoek nie aanvaar is nie.

(3) Indien die betrokke inligting nie ontvang word nie, moet die Raad die aansoek as "hangende" in die rekords hou vir 'n tydperk van minstens drie maande.

(4) Indien die huisbouer versuim om die inligting te verskaf of om die inskrywingsprosedures binne die tydperk beoog in subreël (3) na te kom, kan die Raad die aansoek afkeur en moet die Raad die huisbouer van die redes vir sodanige afkeuring in kennis stel.

(5) Die Raad skryf hierby die inskrywingsertifikaat in die vorm van Aanhansel 13 voor vir doeleindes van artikel 14(1)(c) van die Wet.

Laat inskrywings

14.(1) Wanneer 'n huisbouer strydig met artikel 14 van die Wet 'n aansoek om die inskrywing van 'n huis aan die Raad voorlê nadat met die oprigting van 'n huis begin is, moet die Raad van die huisbouer vereis om die Raad tevrede te stel dat die oprigting wat toe onderneem is, in ooreenstemming is met die NHBRR tegniese vereistes sodat die Raad omsigtige maatreëls, soos beoog in artikel 16(1) van die Wet, kan tref om die risiko betreffende die fonds te bestuur.

(2) In die geval van laat inskrywing, moet die huisbouer die Raad van die volgende dokumente, behoorlik ingevul, voorsien -

(a) 'n Inskrywingsvorm in die vorm van Aanhangsel 5 of 6, na gelang van die geval;

(b) bewys van die beraamde verkoopprys;

(c) betaling van die inskrywingsfooi deur regstreekse en volle betaling ingevolge reël 6;

(d) sertifisering deur 'n bevoegde persoon van -

(i) die grondklassifikasie ingevolge reël 9;

(ii) die ontwerp van fondasies ooreenkomstig reël 9(3) en, waar van toepassing, reël 9(4);

(iii) die rasionele ontwerp ooreenkomstig reël 10(1)(a); en

(iv) bevredigende voltooiing van strukturele werk deur voorlegging van 'n behoorlik ingevulde en ondertekende voltooingssertifikaat deur bevoegde persone: bevredigende voltooing van strukturele werk in die vorm van Aanhangsel 14 deur 'n bevoegde persoon.

(3) Die huisbouer moet op versoek van die Raad 'n bykomende voorgeskrewe laat inskrywingsgeld betaal soos deur die Raad bepaal, vir die spesiale inspeksie wat die Raad moet doen om die inspektoraat in staat te stel om te bepaal of die NHBRR tegniese vereistes nagekom is, voordat die inskrywing aanvaar word.

(4) Indien enige gebreke tydens die inspeksie ontdek word wat die strukturele integriteit van die huis kan raak, of indien vasgestel word dat daar wesenlike nie-nakoming van die NHBRR tegniese vereistes is, moet die Raad, voordat die Raad die inskrywing aanvaar, versoek dat sodanige regstelling van die gebreke of nie-nakoming as wat nodig is op koste van die huisbouer en onder toesig van die bevoegde persoon wat deur die huisbouer aangestel is, gedoen word.

(5) Indien 'n inspekteur om watter rede ook al nie kan vasstel of die NHBRR tegniese vereistes nagekom is nie, mag die Raad van die huisbouer vereis om 'n bevoegde persoon aan te stel -

(a) om die huis te inspekteer; en

(b) om die bevoegde persoon laat inskrywingsverslag in die vorm van Aanhangsel 15, in te vul ten einde nakoming van die NHBRR tegniese vereistes te bevestig.

(6) Enige werk wat blootgelê moet word om die bevoegde persoon in staat te stel om die vrae in subreël 5(b) bedoel te beantwoord, moet deur en op koste van die huisbouer gedoen word.

(7) Die Raad kan enige borgstelling, waarborg, vrywaring of ander sekerheid vereis wat die Raad redelik ag ten einde die Raad se verpligtinge ingevolge artikel 16(1) van die Wet na te kom.

Laat Inskrywings nie verklaar nie

15.(1) Indien 'n huisbouer nie die feit dat konstruksie reeds begin het ten tyde van die inskrywing verklaar nie, en laat inskrywing deur die Raad ontdek word, moet die Raad, as die Raad rede het om te vermoed dat sodanige nie-verklaring 'n doelbewuste poging was om inskrywing of die inspeksieproses te vermy, van die huisbouer vereis om 'n bevoegde persoon aan te stel -

(a) om die huis te inspekteer; en

(b) die bevoegde persoon laat inskrywingsverslag in die vorm van Aanhangsel 15 in te vul om nakoming van die NHBRR tegniese vereistes te bevestig.

(2) Enige werk wat blootgelê moet word om die bevoegde persoon in staat te stel om die vrae in reël 14(2)(d) bedoel te beantwoord, moet deur en op koste van die huisbouer gedoen word.

(3) Reëls 14(2) tot (7) is met die nodige aanpassings van toepassing op huise ingeskryf ingevolge subreël (1), en in die besonder moet die Raad die laat inskrywingsgeld in reël 14(3) bedoel, vereis.

Dissiplinêre stappe met betrekking tot laat inskrywing

16.(1) Behoudens artikel 11(1)(b) en artikel 11(3) van die Wet, mag die Raad, indien 'n huisbouer homself skuldig maak aan gereelde laat inskrywing, die registrasie van die huisbouer intrek of die inskrywings van die huisbouer opskort.

(2) Indien die Raad vasstel dat 'n laat inskrywing 'n poging was om inskrywing of die inspeksieproses te vermy, mag die Raad, nadat die Raad die huisbouer in kennis gestel het, verdere inskrywings ingevolge artikel 11(3) van die Wet opskort totdat regstellende werk ten opsigte van die laat inskrywing van huise wat nie aan die Raad verklaar is nie afgehandel is.

(3) Indien die Raad ingevolge artikel 14(4)(a) van die Wet 'n laat inskrywing wat nie aan die Raad verklaar is nie, moet kanselleer of 'n laat inskrywing wat aan die Raad verklaar is, moet weier weens nie-nakoming van die NHBRR tegniese vereistes, moet die Raad –

(a) die behuisingsverbruiker en die betrokke finansiële instelling of provinsiale behuisingsontwikkelingsraad ingevolge artikel 14(5) van die Wet probeer inlig omtrent die kansellasie en die behuisingsverbruiker probeer in kennis stel van die stappe tot die behuisingsverbruiker se beskikking;

(b) dissiplinêre verrigtinge teen die huisbouer instel ingevolge artikel 11 van die Wet; en

(c) die vervolging van die huisbouer ingevolge artikel 21(1) van die Wet oorweeg.

Kennisgewing van nie-nakoming

17.(1) In die geval van 'n vermoedelike nie-nakoming van enige bepaling van die Wet, moet die Raad 'n huisbouer 'n kennisgewing van nie-nakoming gee in die vorm van Aanhangsel 16, wat die huisbouer opdrag gee om die NHBRR tegniese vereistes of enige ander vereiste van die Wet na te kom.

(2) Binne sewe dae na ontvangs van 'n kennisgewing in subreël (1) bedoel, moet die huisbouer-

(a) begin met die werk of handeling aangedui, asook sodanige bykomende werk of handelinge as wat nodig is om te verseker dat die huis aan die NHBRR tegniese vereistes of enige ander vereistes van die Wet voldoen; of

(b) die Raad skriftelik in kennis stel dat die huisbouer betwis dat die werk of handeling nodig is en wel om die redes wat daar vermeld word, en die Raad in kennis stel of die huisbouer ingevolge artikel 22(3) van die Wet die geskil deur middel van die Raad se interne klagtesprosedure wil hanteer laat word.

(3) Indien die Raad 'n ingenieur geregistreer kragtens die Wet op die Ingenieurswese professie van Suid-Afrika, 1990 (Wet No. 114 van 1990), aanstel om verdere ondersoeke te doen, word daardie ingenieur geag aangestel te wees vir doeleindes van regstappe.

Verantwoordelikhede van behuisingsverbruiker en huisbouer met betrekking tot klagtes

18.(1) Die behuisingsverbruiker en die huisbouer moet probeer om hulle verskille op 'n redelike wyse by te lê alvorens 'n klagte na die Raad verwys word.

(2) Die behuisingsverbruiker moet, voordat hy of sy 'n klagte aan die Raad voorlê, die huisbouer skriftelik in kennis stel van die klagte, met vermelding van al die items wat aandag verg.

(3) Die behuisingsverbruiker moet 'n afskrif van die klagbrief en bewys van die datum waarop dit aan die huisbouer versend is, hou.

(4) Die behuisingsverbruiker moet die huisbouer redelike toegang bied om regstelling te doen.

(5) Die behuisingsverbruiker moet toesien dat hy of sy sy of haar finansiële verpligtinge teenoor die huisbouer nagekom het voordat hy of sy 'n klagte by die Raad aanmeld.

(6) Binne 21 dae na ontvangs van 'n klagte van die behuisingsverbruiker met betrekking tot die nie-nakomingstydperk van drie maande of die struktuurgebrektydperk van vyf jaar moet die huisbouer skriftelik-

(a) bevestig of die huisbouer aanspreeklikheid met betrekking tot die klagte ontken of aanvaar;

(b) bevestig wanneer regstellingswerk sal begin en afgehandel sal word; en

(c) waar nodig, toegang vra ten einde die regstellings te doen.

(7) Binne sewe dae na ontvangs van 'n klagte van 'n behuisingsverbruiker met betrekking tot 'n daklek binne die daklektydperk van een jaar moet die huisbouer skriftelik –

(a) bevestig of hy aanspreeklikheid met betrekking tot die klagte ontken of aanvaar;

(b) bevestig wanneer regstellingswerk sal begin en afgehandel sal word; en

(c) waar nodig, toegang vra ten einde die regstellings te doen.

(8) Die huisbouer of die behuisingsverbruiker, na gelang van die geval, mag 'n klagte na die Raad verwys-

(a) in die geval van enige klagte, as die huisbouer nie binne die bepaalde tydperk antwoord nie; of

(b) indien die huisbouer versuim om sy verpligtinge na te kom; of

(c) as daar 'n geskil is tussen die huisbouer en die behuisingsverbruiker aangaande die omvang van die huisbouer se aanspreeklikheid om regstellings te doen wat nie bygelê kan word nie.

Aanvaarding van 'n klagte

19.(1) 'n Behuisingsverbruiker hoef nie die dienste van 'n prokureur of ander professionele lui, met inbegrip van ingenieurs, te verkry ten einde 'n klagte by die Raad in te dien nie, en koste deur die behuisingsverbruiker aangegaan vir sodanige dienste is nie op die Raad verhaalbaar nie.

(2) Na ontvangs van die klagte moet die Raad 'n voorlopige evaluering van die klagte doen op grond van die inligting deur die behuisingsverbruiker verstrek en die Raad mag verdere inligting van die behuisingsverbruiker aanvra om die Raad te help in die oorweging van die klagte.

(3) 'n Klagte moet ingedien word op die klagtevorm in die vorm van Aanhangsel 17.

(4) Indien die behuisingsverbruiker retensiegeld hou, mag die Raad versoek dat sodanige geld by die Raad gedeponeer word tot tyd en wyl die aanbeveling van die Raad uitgereik is.

(5) Die Raad mag dit 'n voorwaarde vir die aanvaarding van 'n klagte maak dat die behuisingsverbruiker aan die bevinding van die Raad met betrekking tot retensiegeld gehoor gee.

(6) Die Raad moet 'n klagte van 'n huisbouer waar die huisbouer die skriftelike toestemming van die behuisingsverbruiker daarvoor verkry het en die huisbouer bemiddelingsgeld betaal, aanvaar.

Behandeling van klagtes in verband met artikel 13(2)(b)

20.(1) Vir doeleindes van die oorweging van 'n klagte betreffende die geagte waarborgverpligtinge ingevolge artikel 13(2)(b) van die Wet, moet die behuisingsverbruiker –

(a) bewys van die oorspronklike okkupasiedatum van die huis;

(b) bewys van kennisgewing aan die huisbouer binne die toepaslike tydperke in artikel 13(2)(b) van die Wet uiteengesit; en

(c) 'n volledige lys van die items wat aandag verg en waarvan die huisbouer in kennis gestel is,

aan die Raad voorlê.

(2) Indien die Raad van mening is dat die klagte binne die trefwydte van artikel 13(2)(b) val, of indien die Raad oortuig is dat die behuisingsverbruiker die huisbouer ingelig het van sy of haar klagte en die huisbouer nie geantwoord het soos ingevolge reël 18 vereis nie, moet die Raad die huisbouer in kennis stel van –

(a) die klagte;

(b) die betrokke bepalings van die Wet; en

(c) die bepaalde tydperk waarbinne die Raad 'n antwoord betreffende die klagte vereis,

en die huisbouer versoek om sy hulp te verleen in die oplossing van die aangeleentheid.

(3) Indien die Raad bepaal dat die klagte nie binne die trefwydte van artikel 13(2)(b) van die Wet val nie, moet die Raad die behuisingsverbruiker skriftelik van die Raad se besluit en die redes daarvoor in kennis stel.

Klagtes in verband met die nie-nakomingstydperk van drie maande

21.(1) Indien die aard van die klagte verband hou met aangeleenthede bedoel in artikel 13(2)(b)(ii) van die Wet, waarvan binne drie maande na okkupasie kennis gegee is, moet die Raad probeer om die klagte telefonies en deur korrespondensie met die huisbouer op te los.

(2) Indien die huisbouer versuim om binne een maand na kennisgewing deur die Raad te antwoord, mag die Raad 'n versoek om bemiddeling in die vorm van Aanhangsel 18 aan die behuisingsverbruiker rig waarin bevestiging van die besonderhede van die klagte en betaling van die voorgeskrewe bemiddelingsgeld gevra word.

Klagtes in verband met die daklektydperk van een jaar

22.(1) Indien die behuisingsverbruiker 'n daklek in die huis ondervind binne een jaar na okkupasie en die huisbouer versuim het om te antwoord op die klagte waarvan die behuisingsverbruiker kennis gegee het, moet die Raad die huisbouer in kennis stel en probeer om onmiddellike reaksie van die huisbouer te verkry.

(2) Indien die huisbouer versuim om binne sewe dae na kennisgewing ingevolge subreël (1) te antwoord, mag die Raad 'n versoek om bemiddeling in die vorm van Aanhangsel 18 uitreik waarin bevestiging van die besonderhede van die klagte gevra word en mag die Raad betaling van 'n terugbetaalbare bemiddelingsdeposito deur die behuisingsverbruiker vra.

(3) Die bemiddelingsdeposito moet terugbetaal word sodra die klagte ingevolge reëls 25 tot 31 afgehandel is, tensy die Raad bevind het dat die klagte beuselagtig was.

Klagtes in verband met die struktuurgebrektydperk van vyf jaar

23.(1) Indien 'n klagte van 'n behuisingsverbruiker ontvang, na die mening van die Raad, in verband staan met 'n moontlike ernstige strukturele gebrek, mag die Raad probeer om 'n antwoord van die huisbouer te kry, maar die Raad mag onverwyld 'n versoek om bemiddeling in die vorm van Aanhangsel 18 aan die behuisingsverbruiker rig, en mag die Raad 'n voorgeskrewe terugbetaalbare bemiddelingsdeposito van die behuisingsverbruiker vra.

(2) Die bemiddelingsdeposito moet terugbetaal word sodra die klagte ingevolge reëls 25 tot 31 afgehandel is, tensy die Raad bevind het dat die klagte beuselagtig was.

Kontrakgeskille

24.(1) Indien 'n behuisingsverbruiker 'n geskil na die Raad verwys in verband met 'n aangeleentheid bedoel in artikel 13(1), 13(2)(a) of 13(6) van die Wet, kan die Raad –

(a) die klagte ingevolge reël 19 aanvaar;

(b) die partye na arbitrasie verwys in ooreenstemming met die prosedures in reël 29 uiteengesit; of

(c) weier om sodanige geskil te hanteer ingevolge paragraaf (a) of (b) en die partye na hul regte verwys ingevolge artikel 13(2) van die Wet sodat die aangeleentheid deur normale hofverrigtinge opgelos kan word.

(2) Die Raad mag die behuisingsverbruiker versoek om redelike bewys te lewer om 'n klagte te staaf.

(3) Waar die Raad van mening is dat die klagte binne die bestek van subreël (1) val, en die Raad daarvan oortuig is dat die behuisingsverbruiker, waar moontlik, die huisbouer oor sy of haar klagte ingelig het, en die huisbouer nie binne 21 dae geantwoord het nie, moet die Raad die huisbouer in kennis stel van –

(a) die klagte,

(b) die betrokke artikels van die Wet;

(c) die gespesifiseerde tydperk waarbinne die Raad 'n antwoord op die klagte verlang,

en die huisbouer se samewerking versoek om die saak op te los.

(4) Indien die Raad bepaal dat die klagte nie binne die bestek van subreël (1) val nie, moet die Raad die behuisingsverbruiker skriftelik van die Raad se besluit en die redes daarvoor in kennis stel.

(5) Indien die huisbouer versuim om binne 21 dae na die kennisgewing van die Raad te antwoord, mag die Raad 'n versoek om bemiddeling in die vorm van Aanhangsel 18 uitreik, waarin bevestiging van die besonderhede van die klagte verlang word.

(6) Indien die Raad 'n klagte ingevolge artikel 13(7) van die Wet ontvang mag die Raad die klagte ingevolge hierdie reël ontvang: Met dien verstande dat –

(a) die huisbouer binne sewe dae die Raad moet antwoord; en

(b) die Raad binne die diskresie van die Raad onverwyld 'n versoek om bemiddeling by ontvangs van sodange klagte mag uitreik.

(7) Die Raad kan die voorgeskrewe -

(a) bemiddelingsdeposito vir klagtes betreffende artikel 13(2)(a)(ii) en artikel 13(6) en (7) van die Wet; of

(b) bemiddelingsgelde vir klagtes betreffende artikel 13(1) en 13(2)(a)(i) en (iii),

versoek.

(8) Indien die klagte wat ingevolge subreël (6) aanvaar is, verband hou met artikel 13(7) van die Wet en daar redelike gronde vir vervolging na ondersoek is, moet die Raad regsoptrede ingevolge artikel 21 van die Wet oorweeg.

Versoek om bemiddeling

25.(1) Indien die Raad, na ontvangs van 'n ondertekende versoek om bemiddeling in die vorm van Aanhangsel 18 van die behuisingsverbruiker of die huisbouer in die omstandighede in reëls 21, 22, 23 en 24 uiteengesit van mening is dat dit nodig of wenslik is om bemiddeling op terrein te doen, moet die Raad drie alternatiewe datums en tye voorstel vir die bemiddeling op terrein.

(2) Indien nie een van die datums die huisbouer pas nie, moet die bemiddelingsinspeksie voortgaan op 'n datum wat vir die behuisingsverbruiker gerieflik is.

(3) Die Raad moet albei partye van die datum en tyd in kennis stel.

(4) Indien die huisbouer nie aanwesig kan wees nie, moet die huisbouer in kennis gestel word-

(a) van die datum en tyd van die inspeksie;

(b) dat die huisbouer 'n verteenwoordiger mag stuur om die inspeksie by te woon;

(c) dat die huisbouer van 'n verslag van die inspeksie voorsien sal word; en

(d) dat die huisbouer verplig sal wees om binne 'n vasgestelde tyd enige regstelling te doen wat in die verslag aanbeveel word.

Ondersoek

26.(1) Die Raad moet op die datum bedoel in reël 25(3) die huis inspekteer en die klagte ooreenkomstig die Wet oorweeg.

(2) Indien verdere ondersoek nodig is om die verslag te voltooi, mag die Raad die huisbouer versoek om dit binne 'n bepaalde tyd te doen, of mag die Raad sodanige ondersoeke doen as wat nodig is.

(3) Indien die Raad 'n bevoegde persoon geregistreer kragtens die Wet op die Ingenieursprofessie van Suid-Afrika, 1990 (Wet No. 114 van 1990), aanstel om verdere ondersoeke te doen, word daardie bevoegde persoon geag aangestel te wees vir doeleindes van regstappe.

Verslag

27.(1) Na die bemiddeling op terrein en enige verdere ondersoek moet die Raad 'n verslag opstel -

(a) wat besonderhede verskaf van die items wat regstelling deur die huisbouer vereis ten einde sy verpligtinge ingevolge die Wet na te kom; en

(b) wat die datum bepaal waarteen sodanige werk moet begin en afgehandel moet wees.

(2) Sowel die behuisingsverbruiker as die huisbouer moet van die inhoud van die verslag in kennis gestel word, en die huisbouer moet, behoudens artikel 22 van die Wet, die regstellings doen wat in die verslag genoem word.

Versoeke om bystand uit Fonds

28.(1) Behoudens artikel 17 van die Wet mag die Raad slegs vir regstelling betaal indien -

(a) die verslag beoog in reël 27 afgehandel en kennis van die inhoud daarvan gegee is; en

(b) van die huisbouer of 'n persoon beoog in artikel 10(5) van die Wet, vereis is om hulle onderskeie verpligtinge na te kom en hulle versuim het om dit te doen binne die tydperk deur die Raad bepaal; of

(c) die Raad bevestig het dat die huisbouer nie meer bestaan nie.

(2) Indien die huisbouer die bevindings en aanbevelings van die verslag in reël 27 beoog betwis en 'n geskil ingevolge artikel 22(1) of (3) van die Wet verklaar, moet die Raad voortgaan met die regstelling van enige ernstige strukturele gebrek in bedoelde verslag aanbeveel, behoudens finale bepaling van aanspreeklikheid vir die koste van die regstelling, wat deel uitmaak van die geskil bedoel ingevolge artikel 22(1) of (3) van die Wet.

Verwysing van 'n klagte na arbitrasie

29.(1) Die Raad mag, behoudens subreël (2),(3), (4) en (5) enige klagte ingevolge artikel 13 van die Wet deur die Raad ontvang, na arbitrasie verwys.

(2) Die behuisingsverbruiker en die huisbouer mag, vir doeleindes van die beslegting van 'n geskil ingevolge artikel 13 van die Wet, by skriftelike ooreenkoms tussen hulle die geskil na arbitrasie verwys.

(3) Die aard van die geskil wat besleg moet word, moet gespesifiseer word in 'n ooreenkoms tussen die partye, wat 'n verwysing na in arbitrasie voor 'n enkele arbiter uitmaak ingevolge en behoudens die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965).

(4) Die partye mag op 'n arbiter ooreenkom of mag die Raad versoek om 'n arbiter aan te stel.

(5) Indien die partye nie oor 'n arbiter ooreen kan kom nie, moet die Raad die arbiter aanstel.

(6) Die gelde van die arbiter deur die Raad aangestel, moet in ooreenstemming wees met die tariewe van tyd tot tyd deur die Raad bepaal.

(7) In die voer van die verrigtinge moet die arbiter hom of haar laat lei deur die oogmerk van 'n doeltreffende, spoedige en bekostigbare meganisme om geskille tussen huisbouers en behuisingsverbruikers te besleg.

(8) Die arbiter mag sodanige sekerheid vereis as wat hy of sy gepas ag betreffende die betaling van koste en mag sodanige kostebevel gee as wat hy of sy gepas ag.

(9) Die partye mag by skriftelike ooreenkoms die arbiter opdrag gee om die verrigtinge te beperk tot 'n ondersoek en 'n deskundige mening deur die arbiter ten opsigte van die aangeleentheid wat die klagte uitmaak, welke mening vir albei partye bindend is: Met dien verstande dat –

(a) die partye skriftelik ooreenkom om hulle deur sodanige mening te laat bind; en

(b) sodanige prosedure slegs gevolg word wanneer daar 'n skriftelike ooreenkoms tussen die partye en die arbiter is oor die arbiter se tegniese bevoegdheid, ondervinding en deskundigheid rakende die saak in geskil om 'n deskundige mening daaroor uit te spreek.

Verwysing na interne klagtesprosedure, arbitrasie en Openbare Beskermer

30.(1) 'n Behuisingsverbruiker of 'n huisbouer wat 'n besluit of handeling van die Raad se personeel of agente ooreenkomstig die Raad se interne klagtesprosedure wil laat hersien, moet die Raad daarvan in kennis stel binne 30 dae nadat hy of sy van die betrokke besluit of handeling kennis gekry het.

(2) Die kennisgewing in subreël (1) bedoel moet–

(a) al die toepaslike besonderhede van die betwiste besluit of handeling uiteensit; en

(b) die grondslag aandui waarop die besluit of handeling aangeveg word.

(3) Wanneer die Raad in kennis gestel word, moet die behuisingsverbruiker of huisbouer, die voorgeskrewe interneklagtedeposito aan die Raad betaal.

(4) Die behuisingsverbruiker of die huisbouer kan versoek dat die besluit of optrede hersien word deur óf-

(a) die hoof- uitvoerende beampte van die Raad; óf

(b) die komitee,

na gelang van die aard van die aangeleentheid.

(5) Wanneer 'n klagte na die komitee verwys is, mag die komitee sekerheid vir die koste van die hersiening vra.

(6) Wanneer die aangeleentheid deur die hoof- uitvoerende beampte hersien word, moet hy of sy die besluit of handeling hersien binne 30 dae na ontvangs van die versoek om hersiening.

(7) Na die hersiening beoog in subreël (6) moet die hoof- uitvoerende beampte die besluit of handeling bevestig, wysig of herroep, of, indien die aangeleentheid binne die omvang van die werksaamhede van die komitee val, die aangeleentheid na die komitee verwys.

(8) Indien die klagte gegrond is, moet die interneklagtedeposito aan die behuisingsverbruiker of die huisbouer, na gelang van die geval, terugbetaal word.

(9) Die behuisingsverbruiker of die huisbouer of albei, na gelang van die geval, moet van die hoof- uitvoerende beampte se besluit in kennis gestel word.

(10) Die komitee moet enige klagte so gou doenlik, maar hoogstens drie maande na ontvangs daarvan deur die Raad, oorweeg.

(11) Die komitee mag sy eie prosedures vir doeleindes van die oorweging van 'n klagte bepaal.

(12) Die komitee mag die besluit of handeling van die Raad se personeel of agente bevestig, wysig of herroep sonder dat die klaer daardeur enige regresreg tot die Raad verkry.

(13) Die komitee mag versuim om aan die 30 dae tydperk in subreël (1) bedoel te voldoen kondoneer indien die kommitee oortuig is daar daar goeie en wesenlike redes vir die versuim is.

(14) Die komitee mag enige bevel met betrekking tot die deposito of enige ander regstreekse koste in verband met die ondersoek gee, met inbegrip van dié van die Raad, in die oorweging van die aangeleentheid.

(15) Indien 'n behuisingsverbruiker of huisbouer ontevrede is met die besluit van die komitee, mag die klaer, binne 30 dae na ontvangs van die komitee se besluit, die saak voortsit ooreenkomstig sy of haar regte ingevolge artikel 22(4) van die Wet.

(16) Indien die veronregte persoon versuim om sy of haar regte kragtens artikel 22(4) binne 30 dae uit te oefen, is die besluit van die komitee, behoudens artikel 22(1) van die Wet, finaal.

Arbitrasie ingevolge artikel 22(4)(ii) van die Wet

31.(1) 'n Geskil met betrekking tot 'n diskresie uitgeoefen deur die Raad, moet besleg word met inagneming van die reëls van administratiewe geregtigheid.

(2) Die Raad en 'n behuisingsverbruiker of 'n huisbouer mag vir doeleindes van die beslegting van 'n geskil ingevolge artikel 22(4)(ii) van die Wet die geskil na arbitrasie verwys.

(3) Die aard van die geskil wat besleg moet word, moet gespesifiseer word in 'n ooreenkoms tussen die partye, wat 'n verwysing na arbitrasie voor 'n enkele arbiter uitmaak ingevolge en behoudens die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965).

(4) Indien die partye nie oor 'n arbiter ooreen kan kom nie, moet die Direkteur-generaal: Departement van Behuising die arbiter aanstel.

(5) Die arbiter mag sodanige sekerheid van die huisbouer of behuisingsverbruiker vereis as wat hy of sy gepas ag met betrekking tot die betaling van koste, en mag sodanige kostebevel gee as wat hy of sy gepas ag.

(6) Arbitrasie ingevolge hierdie reël geskied in Randburg of op sodanige ander plek as waarop die partye ooreenkom.

Toegang tot dokumente

32. Enige persoon het toegang tot die reëls van die Raad, die Huisbouhandleiding of enige omsendbrief uitgereik deur die Raad, tussen 08:30 en 16:00 by die kantore van die Raad in Aanhangsel 19 uiteengesit.

Aanhangsel 19

Kantore van die Raad

RANDBURG
Fernridge-kantoorpark
Hunterstraat 5
Ferndale
Randburg
2194

DURBAN
Davenportweg 98
Glenwood
Durban
4007

KAAPSTAD
Eenheid 7
Sunbird-kantoorpark
Pasitastraat
Tygervallei
Bellville
7530

PORT ELIZABETH
Pickeringstraat 40
Newton Park
Port Elizabeth
6045

BLOEMFONTEIN
Eenheid 12
Brandwagpark
h.v. McHardy- en Melvillelaan
Randwag
Bloemfontein
9301

NELSPRUIT
Jonesstraat 4
Nelspruit-uitbreiding
1201

RUSTENBURG
Leydstraat 104
Rustenburg
0299

LYS VAN AANHANGSELS

Aanhangsel 1	"Aansoek om Registrasie - AR003"
Aanhangsel 2	"Registrasiesertifikaat - BR002"
Aanhangsel 3	"Bevoegde Persoon Vraelys - CP001"
Aanhangsel 4	"Magtiging vir Kontrakteur se Betaling - PA003"
Aanhangsel 5	"Deeltitel Inskrywingsvorm - ST003"
Aanhangsel 6	"Residensiële Eenheid Inskrywingsvorm - EF003"
Aanhangsel 7	"Kennisgewing van Verandering in Erf Klassifikasie : Ontwerp van Fondasies en Verbandhoudende Strukture - Byvoegsel A1"
Aanhangsel 8	"Aanstelling van Bevoegde Persoon : Rasionale Ontwerp - Byvoegsel B1"
Aanhangsel 9	"Akkreditering van Kontrakteur wat Agrément Gesertifiseerde Nie Gestandardiseerde Konstruksie Aanbied - Byvoegsel C1"
Aanhangsel 10	"Bousisteem Registrasievorm - BS001"
Aanhangsel 11	"Sertifikaat deur Bevoegde Persoon betreffende Nie-Agrément Goedgekeurde Nie-Gestandardiseerde Konstruksie - Byvoegsel D2"
Aanhangsel 12	"Deeltitel Gefaseerde Betalingvorm - ST001"
Aanhangsel 13	"Residensiële Eenheid Inskrywingsertifikaat - EC003"
Aanhangsel 14	"Voltooiingssertifikaat deur 'n Bevoegde Persoon: Bevredigende Voltooiing van Strukturele Werk - Byvoegsel D1"

Aanhangsel 15	"Bevoegde Persoon Laat Inskrywingsverslag"
Aanhangsel 16	"Kennisgewing van Nie-Nakoming"
Aanhangsel 17	"Klagtevorm"
Aanhangsel 18	"Versoek vir Bemiddeling"
Aanhangsel 19	"Kantore van Raad"

No. R. 1409 **1 December 1999**

HOUSING CONSUMERS PROTECTION MEASURES ACT, 1998

REGULATIONS REGARDING NHBRC DISCIPLINARY PROCEEDINGS

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

SCHEDULE

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 -

"chair" means the chair of the disciplinary committee contemplated in section 5(2)(a) of the Act;

"committee" means a disciplinary committee contemplated in section 5(1)(b) of the Act;

"day" excludes any day falling within the building industry recess period;

"prosecutor" means a person appointed or contracted by the Council for purposes of presenting a matter before the committee;

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

Disciplinary committee

2.(1) The Council shall appoint at least three persons to the disciplinary committee for the period determined by the Council, but not exceeding three years at any one time.

(2) The Council may for bona fide reasons or at the request of a member of the committee for his or her removal, remove or substitute members of the committee.

(3) Subject to subregulation (4), the constitution of the committee must remain unaltered for purposes of any proceedings in respect of any particular home builder in terms of section 11(1) of the Act.

(4) Should a vacancy occur on the committee after the committee has commenced with proceedings, the

proceedings may continue before the remaining members of the committee: Provided that the committee shall not proceed with less than two members.

(5) If only two members of the committee are present at a meeting, the decision must be unanimous in order to bring out a decision adversely affecting the home builder.

(6) No decision taken by the committee or act performed by it hereunder is invalid merely by reason of a vacancy on the committee.

(7) The committee must meet from time to time and at such places as may be necessary to fulfil its duties.

(8) The quorum of the committee is two members, which must include the chair.

(9) The proceedings before the committee must be recorded.

(10) Any decision of the committee is a decision of the Council and is, subject to section 22(1) and 22(2) of the Act, final.

(11) Subject to subregulation (5), the decision of the majority of the members of the committee constitutes the decision of the committee.

(12) Subject to subregulation (5), the chair has a casting vote in addition to his or her deliberative vote in the event of an equalilty of votes.

Preliminary proceedings

3.(1) In the event that the Council has received information that a home builder may be guilty of anything contemplated in section 11(1) of the Act, the Council must investigate the matter.

(2) The Council must investigate the charges contemplated in subregulation (1) in terms of its complaints procedures prescribed in terms of section 7(1)(vi) and (vii) of the Act.

(3) Following the investigations contemplated in subregulation (2), should the Council be of the view that there has been a contravention contemplated in section 11(1) of the Act that requires disciplinary action, the Council must notify the home builder in terms of section 24 of the Act -

(a) that the matter has been referred to the committee;

(b) of the charge against the home builder, with reference to the relevant provision allegedly contravened as contemplated in section 11(1) of the Act;

(c) of the implications for the home builder should the home builder be found guilty;

(d) of the home builder's right, within 30 days as from notification, to make representations to the committee in the form of a sworn affidavit setting forth its position, or any comments on the charges, but that the home builder is not obliged to do so and that any such affidavit or comments may be used as evidence at the enquiry;

(e) of the home builder's right to be represented by or accompanied by an adviser; and

(f) that should the home builder wish to plead guilty to the charge, the home builder may -

(i) furnish the committee within 30 days with an affidavit setting forth any mitigating circumstances; or

(ii) request an opportunity to lead evidence in mitigation;

and must provide the home builder with a copy of these rules and any affidavits contemplated in subregulation (4).

(4) The Council must have affidavits prepared setting out the facts pertaining to the charge and details of the nature and results of any investigation undertaken by the Council and forward a copy of the notice in terms of subregulation (3) and those affidavits to the committee, who, subject to any comments

contemplated in the affidavit submitted in terms of subregulation (3)(d) may determine that -

(a) the charge does not disclose a contravention contemplated in section 11(1) of the Act;

(b) based on the facts set out in the affidavit, there is no reasonable prospect of proving the charge against the home builder;

(c) the matter is of a petty nature and does not require disciplinary sanction; or

(d) that the charge is competent and that an inquiry should be held.

(5) The Council may at any time before a decision contemplated in subregulation (4) has been taken, withdraw a charge and notify the home builder and the affected housing consumer accordingly, and may re-open the matter thereafter should new evidence become available which may justify such an action.

(6) In the event of the committee concluding as contemplated in subregulation (4)(a), (b) or (c), the committee must acquit the home builder and the Council must notify the home builder and any affected consumer accordingly.

(7) Should the home builder in its comments, contemplated in subregulation (3)(d), admit that the home builder performed or failed to perform any act as charged and the committee is satisfied that such act or omission constitutes a contravention contemplated in section 11(1) of the Act, the committee must after considering the contents of the affidavits contemplated in subregulations (3) and (4), determine the penalty to be imposed and must notify the home builder and any affected housing consumer –

(a) that it finds the home builder guilty of the charge; and

(b) of the penalty it has imposed on the home builder.

(8) In the event of a home builder pleading not guilty and the charge not being disposed of in terms of subregulation (4), the Council must summon the home builder to appear before the committee at a time and

place specified in the summons for the purpose of an inquiry.

(9) The committee must make its findings based on the balance of probabilities.

(10) In the pleading of a charge, the home builder may in addition to any other plea, plead that it has previously been found guilty or not guilty on the charge.

(11) In the event of criminal proceedings being instituted against the home builder in terms of section 21 of the Act, the committee must, in determining the penalty for contravention, have regard to any sentence imposed by a competent court and bear in mind the cumulative effect of any penalty and any such sentence to avoid double jeopardy.

(12) A court in imposing any sentence in terms of section 21 of the Act shall similarly have regard to any penalty imposed by the committee.

Summons

4.(1) A summons referred to in subregulation 3(8), must be –

(a) as nearly as possible in the form specified in Annexure 1;

(b) signed by the chief executive officer;

(c) served on the home builder in terms of section 24 of the Act.

(2) If the home builder, after the summons referred to in subregulation 3(8) has been served on it, but before the commencement of the inquiry, notifies the committee in writing that the home builder wishes to plead guilty to the charge as set out in such summons and the committee is satisfied that the charge against the home builder should be disposed of without the holding of an inquiry, the committee must, time permitting, notify the home builder, and the affected housing consumer and any person on whom a summons has been served in terms of regulation 7, that the inquiry will no longer be held, and thereupon

regulation 3(7) applies with the necessary changes required by the context in respect of such charge.

Hearing

5.(1) At the commencement of an inquiry the prosecutor must read the charge to the home builder and must ask the home builder to plead guilty or not guilty thereto.

(2) If the home builder refuses or fails to plead to the charge at the inquiry, it must be recorded that the home builder pleaded not guilty, and thereupon the inquiry must be proceeded with as if the home builder had in fact pleaded not guilty to the charge.

(3) A home builder may be assisted by an adviser, including a legal adviser, at an inquiry at the home builder's cost.

(4) Subject to the provisions of these rules, evidence at an inquiry must be given orally or be tendered by way of sworn affidavits: Provided that no affidavit must be admitted in evidence if the committee is satisfied that there are sufficient grounds why it should not be admitted.

(5) Unless an affidavit has been made available to a party before the hearing to consider such affidavit, the affected party may object to the acceptance thereof without having an opportunity to consider the affidavit.

(6) The chair of the committee must administer an oath to or accept an affirmation from any person giving evidence.

(7)Whenever the home builder has pleaded guilty to a charge –

(a) if the committee is satisfied that the home builder is guilty of a contravention contemplated in section 11(1) of the Act, and the committee is satisfied that the charge can be disposed of without hearing evidence, then the committee may find the home builder guilty of the charge without hearing evidence;

(b) the committee may, and at the instance of the home builder must, hear or accept further evidence in connection with the charge, irrespective of whether or not the committee is satisfied that the home builder is guilty of the charge.

(8) If the home builder has pleaded not guilty to the charge or the committee has decided to hear or accept further evidence in connection with the charge in terms of subregulation (7), the committee must give the prosecutor the opportunity of adducing evidence in support of the charge.

(9) After the prosecutor has adduced evidence in support of the charge in terms of subregulation (7) or (8), the committee must give the home builder the opportunity to adduce evidence in its defence against the charge.

(10) Witnesses may be cross-examined by the parties and may also be examined by the committee.

(11) After all the evidence in connection with a charge has been adduced or if the committee has decided in terms of subregulation (7), not to hear any further evidence in connection with the charge, the prosecutor and the home builder may address the committee and the committee may allow the parties to reply to issues raised.

(12) After the proceedings contemplated in subregulation (11) have been concluded the committee must consider the evidence submitted at the inquiry, in order to come to a decision whether the home builder should be convicted on the charge.

(13) The committee must inform the home builder and the affected housing consumer of its decision.

(14) A committee may at any time, for sufficient cause, adjourn the inquiry to a date determined by it.

Penalties

6.(1) If the committee has in terms of regulation 5(12) convicted the home builder of a charge, it must give-

(a) the prosecutor the opportunity of proving whether the home builder has previously been convicted by the committee; and

(b) the home builder the opportunity of adducing evidence in mitigation and the home builder and the prosecutor the opportunity of addressing it in connection with the penalty which the committee should impose upon the home builder.

(2) A certificate signed by the chief executive officer and purporting to be an extract from the minutes of the proceedings of the committee stating the particulars of the charge brought against the home builder, the conviction of the home builder, and the penalty imposed upon the home builder by the committee is, upon its production by the prosecutor to the committee, in the absence of evidence to the contrary sufficient proof that the home builder had previously been convicted.

(3) After the provisions of subregulation (2) have been complied with, the committee must, subject to subregulation 5 (14), impose a penalty and inform the home builder and an affected housing consumer accordingly.

(4) The penalties that may be imposed are –

(a) a warning;

(b) a fine not exceeding R25 000; or

(c) withdrawal of registration.

(5) Where a home builder wishes to appeal against or take under review, in terms of section 22(1) or (2) of the Act, a decision taken or a penalty imposed by the committee, the home builder must notify the Council of its intentions within 30 days of the issuing of the decision or penalty.

(6) Where the committee withdraws the registration of a home builder in terms of section 11(1) of the Act, the Council must publish in the *Government Gazette* -

(i) the names of such companies, close corporations, trusts, partnerships or sole traders;

(ii) the names, and identity numbers of the directors, members, trustees or partners; and

(iii) the reasons for such withdrawal of registration.

(7) Where a fine has been imposed, the committee may order that a portion of the fine, but not exceeding 80 percent of such fine, be applied, subject to finalisation as contemplated in subregulation (5), towards payment of compensation to any affected housing consumer who suffered pecuniary loss as a result of the home builder's contravention of the Act.

(8) Any fine imposed by the committee must be paid within 30 days of notification to the home builder, failing which the registration of the home builder is automatically suspended.

(9) Should the fine not be paid within 60 days, the Council may act in terms of section 11(1)(c) of the Act.

(10) Any person directly affected by the decision of the committee may within 30 days of notification of the decision request the committee in writing to furnish him or her with written reasons for a decision of the committee.

(11) Any person affected by the decision of the committee may request a copy of the record of proceedings of the committee.

Witnesses and attendances

7.(1) A committee may of its own accord or at the instance of the home builder or the prosecutor summon any person to be present at an inquiry in order to give evidence and to produce at such inquiry any book or other document which such person has in his or her possession or custody or under his or her control or which is suspected or believed to be in his or her possession or custody or under his or her control and which has a bearing on the charge which is a subject matter of such inquiry.

(2) The committee may require security for the cost of attendance of any particular witness.

(3) Subject to a decision of the committee, the Council may pay a witness for the Council summoned and present at an inquiry, the reasonable fees that the Council may from time to time determine generally, or in any particular case.

(4) No person –

(a) having been duly summoned to be present at an inquiry, may without lawful excuse fail so to appear;

(b) having been called as a witness at an inquiry, may without lawful excuse refuse to be sworn or to make an affirmation or to produce any book or other document or to answer any question which he or she may be required to produce or answer.

(5) Where a person fails to comply with subregulation (4), he or she is guilty of an offence in terms of section 27(1) of the Act and liable on conviction to a fine not exceeding R25 000 or to imprisonment for a period not exceeding one year.

Representation

8. A home builder must be represented in disciplinary proceedings by the chair, managing director, chief executive officer, managing member of the home builder or such other person as may be specified by the Council in any particular case in the notice contemplated in regulation 3(3) or the summons in regulation 3(8).

Annexure 1

Housing Consumer Protection Measures Act, 1998

(Act 95 of 1998)

Form of summons referred to in regulations 3(8) and 4(1) and prescribed in terms of Section 27(1) of the Act.

To .....

You are hereby summoned to appear on.....19.....at.....h .....

at ..... before a disciplinary committee of the National Home Builders Registration Council for the purposes of an inquiry into improper conduct by you and to produce the following books and documents at the said time and place

.....

The charge against you which will be inquired into at the said time and place and of which you have already been notified in writing by the board on .....

is the following .....

If you fail, without lawful excuse, to be present at the time and place stated above, you will be guilty of an offence in terms of regulation 7(5) of Regulation No. ..... of 1999 and liable on conviction to a fine not exceeding R25 000 or up to one year's imprisonment.

Signed at .....on ..... 19 .....

.....

Managing Director

National Home Builders Registration Council

No. R. 1409 1 Desember 1999

WET OP BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS, 1998

REGULASIES MET BETREKKING TOT NHBRR DISSIPLINÊRE VERRIGTINGE

Die Minister van Behuising het, na oorleg met die Nasionale Huisbouersregistrasieraad, kragtens artikels 1 en 7(2) van die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie Reëls het enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, daardie betekenis en, tensy uit die samehang anders blyk, beteken -

"aanklaer" die persoon deur die Raad aangestel of gekontrakteer is vir doeleindes van die aanbieding van 'n aangeleentheid voor die komitee;

"dag" nie ook 'n dag wat in die boubedryf se vakansietydperk val nie;

"die Wet" die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998);

"komitee" die dissiplinêre komitee beoog in arikel 5(1)(b) van die Wet;

"voorsitter" die voorsitter van die dissiplinêre komitee beoog in artikel 5(2)(a) van die Wet.

Dissiplinêre komitee

2.(1) Die Raad moet minstens drie persone aanstel vir die dissiplinêre komitee vir die tydperk wat die Raad bepaal, maar wat nie drie jaar op 'n keer oorskry nie.

(2) Die Raad kan vir bona fide redes of op versoek van 'n lid van die komitee vir sy of haar ontslag, lede van die komitee ontslaan of vervang.

(3) Behoudens subregulasie (4) bly die samestelling van die komitee onveranderd vir doeleindes van enige verrigtinge teen 'n bepaalde huisbouer ingevolge artikel 11(1) van die Wet.

(4) Indien 'n vakature in die komitee ontstaan nadat die komitee met verrigtinge begin het, kan die verrigtinge voortgaan voor die oorblywende lede van die komitee: Met dien verstande dat die komitee nie mag voortgaan met minder as twee lede nie.

(5) Indien slegs twee lede van die komitee op 'n vergadering aanwesig is, moet 'n besluit wat 'n nadelige uitwerking op die huisbouer het, 'n eenstemmige besluit wees.

(6) Geen besluit deur die komitee hierkragtens geneem of handeling deur die komitee hierkragtens verrig, is ongeldig bloot vanweë 'n vakature in die komitee nie.

(7) Die komitee moet op sodanige tye en plekke vergader as wat nodig is om pligte van die komitee na te kom.

(8) Die kworum vir 'n vergadering van die komitee is twee lede, wat die voorsitter moet insluit.

(9) Die verrigtinge voor die komitee moet genotuleer word.

(10) 'n Besluit van die komitee is 'n besluit van die Raad en is, behoudens artikel 22(1) en (2) van die Wet, finaal.

(11) Behoudens subregulasie (5) maak 'n besluit van die meerderheid van die lede van die komitee die besluit van die komitee uit.

(12) Behoudens subregulasie (5) het die voorsitter, in die geval van 'n staking van stemme, 'n beslissende stem benewens sy of haar beraadslagende stem.

Voorlopige verrigtinge

3.(1) Wanneer die Raad inligting gekry het dat 'n huisbouer skuldig kan wees aan enigiets beoog in artikel 11(1) van die Wet, moet die Raad die aangeleentheid ondersoek.

(2) Die Raad moet die aanklagte beoog in subregulasie (1) ondersoek ooreenkomstig die klagteprosedure voorgeskryf ingevolge artikel 7(1)(vi) en (vii) van die Wet.

(3) Na die ondersoeke bedoel in subregulasie (2) moet die Raad, indien die Raad van mening is dat daar 'n oortreding was soos beoog in artikel 11(1) van die Wet wat dissiplinêre stappe vereis, die huisbouer ooreenkomstig artikel 24 van die Wet in kennis stel -

(a) dat die aangeleentheid na die komitee verwys is;

(b) van die aanklag teen die huisbouer, met verwysing na die betrokke bepaling wat na bewering oortree is soos beoog in artikel 11(1) van die Wet;

(c) van die implikasies vir die huisbouer indien hy skuldig bevind word;

(d) van die huisbouer se reg om binne 30 dae na die kennisgewing vertoë tot die komitee te rig by wyse van 'n beëdigde verklaring waarin die huisbouer se posisie of enige kommentaar oor die aanklagte uiteengesit word, maar dat die huisbouer nie verplig is om dit te doen nie en dat sodanige beëdigde verklaring of kommentaar as getuienis in die ondersoek gebruik kan word;

(e) van die huisbouer se reg om verteenwoordig te word of deur 'n adviseur vergesel te word; en

(f) dat indien die huisbouer op die aanklag skuldig wil pleit, die huisbouer –

(i) die komitee binne 30 dae van 'n beëdigde verklaring mag voorsien waarin versagtende omstandighede uiteengesit word; of

(ii) 'n geleentheid mag vra om getuienis ter versagting aan te bied,

en die huisbouer voorsien van 'n afskrif van hierdie regulasies en enige beëdigde verklarings beoog in subregulasie (4).

(4) Die Raad moet beëdigde verklarings opstel waarin die feite wat op die aanklag betrekking het en besonderhede van enige ondersoek deur die Raad gedoen, uiteengesit word en moet 'n afskrif van die kennisgewing in subregulasie (3) bedoel en daardie beëdigde verklarings deurstuur aan die komitee, wat, behoudens enige kommentaar beoog in die beëdigde verklaring voorgelê ingevolge subregulasie (3)(d), mag bepaal –

(a) dat die aanklag nie 'n oortreding in artikel 11(1) van die Wet beoog openbaar nie;

(b) dat daar, op grond van die feite uiteengesit in die beëdigde verklaring, geen redelike vooruitsig is om die aanklag teen die huisbouer te bewys nie;

(c) dat die aangeleentheid van 'n kleinlike aard is en nie dissiplinêre sanksie vereis nie; of

(d) dat die aanklag geldig is en dat 'n ondersoek gehou moet word.

(5) Die Raad kan te eniger tyd voordat 'n besluit in subregulasie (4) beoog geneem word, 'n aanklag terugtrek en die huisbouer en die betrokke behuisingsverbruiker dienooreenkomstig in kennis stel, en kan die aangeleentheid daarna heropen indien nuwe inligting beskikbaar word wat so 'n handeling regverdig.

(6) Indien die komitee 'n besluit neem soos in subregulasie (4)(a), (b) of (c) beoog, moet die komitee die huisbouer vryspreek en die Raad moet die huisbouer en enige betrokke behuisingsverbruiker dienooreenkomstig inlig.

(7) Indien die huisbouer in sy kommentaar beoog in subregulasie (3)(d) erken dat die huisbouer enige handeling verrig het of versuim het soos in die aanklag vermeld, en die komitee oortuig is dat sodanige handeling of versuim 'n oortreding uitmaak soos in artikel 11(1) van die Wet beoog, moet die komitee, nadat die komitee die inhoud van die beëdigde verklarings bedoel in subregulasies (3) en (4) beoog oorweeg het, die straf bepaal wat opgelê moet word en die huisbouer en enige betrokke behuisingsverbruiker in kennis stel –

(a) dat die komitee die huisbouer skuldig bevind aan die aanklag; en

(b) van die straf wat die komitee die huisbouer opgelê het.

(8) Indien die huisbouer nie skuldig pleit en daar nie met die aanklag gehandel word ingevolge subregulasie (4) nie, moet die Raad die huisbouer oproep om voor die komitee te verskyn op die tyd en plek in die dagvaarding vermeld, vir doeleindes van 'n ondersoek.

(9) Die komitee moet bevindinge maak op grond van 'n oorwig van waarskynlikhede.

(10) In sy pleit op 'n aanklag mag die huisbouer, bykomend tot 'n ander pleit, pleit dat die huisbouer voorheen skuldig of nie skuldig nie bevind is op die aanklag.

(11) Indien 'n strafsaak teen die huisbouer aanhandig gemaak word ingevolge artikel 21 van die Wet, moet die komitee by die vasstelling van die straf vir oortreding rekening hou met enige vonnis wat deur deur 'n bevoegde hof opgelê is en die kummulatiewe effek van enige vonnis en enige sodanige vonnis in gedagte hou om dubbele nadeel te verhoed.

(12) 'n Hof moet, by die oplegging van enige vonnis ingevolge artikel 21 van die Wet, op soortgelyke wyse aandag gee aan enige straf deur die komitee opgelê.

Dagvaarding

4.(1) 'n Dagvaarding in subregulasie 3(8) bedoel moet –

(a) so na moontlik in die vorm van Aanhangsel 1 wees;

(b) deur die hoof- uitvoerende beampte onderteken wees;

(c) aan die huisbouer beteken word ooreenkomstig artikel 24 van die Wet.

(2) Indien die huisbouer, nadat die dagvaarding bedoel in subregulasie 3(8) die huisbouer beteken is maar voor die aanvang van die ondersoek, die komitee skriftelik in kennis stel dat die huisbouer skuldig wil pleit op die aanklag soos in die dagvaarding uiteengesit, en die komitee oortuig is dat die aanklag teen die

huisbouer afgehandel moet word sonder dat 'n ondersoek gehou word, moet die komitee, indien daar tyd is, die huisbouer en die betrokke behuisingsverbruiker en enigiemand aan wie 'n dagvaarding ingevolge regulasie 7 beteken is, in kennis stel dat die ondersoek nie meer gehou gaan word nie, in welke geval regulasie 3(7), met die nodige aanpassings wat die verband vereis, ten opsigte van sodanige aanklag van toepassing is.

Verhoor

5.(1) By die aanvang van 'n ondersoek moet die aanklaer die aanklag aan die huisbouer voorlees en die huisbouer vra om skuldig of onskuldig te pleit.

(2) Indien die huisbouer weier of versuim om by die ondersoek op die aanklag te pleit, moet genotuleer word dat die huisbouer onskuldig gepleit het, en daarna moet met die ondersoek voortgegaan word asof die huisbouer inderdaad onskuldig gepleit het op die aanklag.

(3) 'n Huisbouer mag op eie koste deur 'n adviseur, met inbegrip van 'n regsadviseur, bygestaan word tydens 'n ondersoek.

(4) Behoudens hierdie regulasies moet getuienis mondelings afgelê word of by wyse van beëdigde verklarings aangebied word: Met dien verstande dat geen beëdigde verklaring as getuienis toegelaat moet word nie as die komitee oortuig is dat daar voldoende gronde is waarom dit nie toegelaat moet word nie.

(5) Tensy 'n beëdigde verklaring voor die verhoor aan 'n party beskikbaar gestel is vir oorweging, kan die party wat geraak word, beswaar maak teen die aanvaarding daarvan sonder dat daar geleentheid is om dit te oorweeg.

(6) Die voorsitter moet 'n eed administreer of 'n bevestiging aanvaar van enigiemand wat getuienis aflê.

(7) Indien die huisbouer skuldig gepleit het op 'n aanklag –

(a) en die komitee oortuig is dat die huisbouer skuldig is aan 'n oortreding beoog in artikel 11(1) van die Wet en dat die aanklag afgehandel kan word sonder om getuienis aan te hoor, mag die komitee die huisbouer skuldig bevind op die aanklag sonder om getuienis aan te hoor;

(b) mag die komitee, en moet die komitee op versoek van die huisbouer, verdere getuienis in verband met die aanklag aanhoor of aanvaar, ongeag of die komitee oortuig is dat die huisbouer aan die aanklag skuldig is al dan nie.

(8) Indien die huisbouer onskuldig gepleit het op die aanklag of indien die komitee besluit het om verdere getuienis in verband met die aanklag aan te hoor of te aanvaar ingevolge subregulasie (7), moet die komitee die aanklaer die geleentheid gee om getuienis ter ondersteuning van die aanklag aan te bied.

(9) Nadat die aanklaer getuienis ter ondersteuning van die aanklag ingevolge subregulasie (7) of (8) aangebied het, moet die komitee die huisbouer die geleentheid gee om verdedigingsgetuienis in verband met die aanklag aan te bied.

(10) Getuies kan deur die partye kruisondervra word en kan ook deur die komitee ondervra word.

(11) Nadat al die getuienis in verband met die aanklag aangebied is of indien die komitee kragtens subregulasie (7) besluit het om nie verdere getuienis in verband met die aanklag aan te hoor nie, kan die aanklaer en die huisbouer die komitee toespreek en die komitee kan die partye toelaat om te antwoord op punte wat geopper is.

(12) Nadat die verrigtinge in subregulasie (11) beoog afgehandel is moet die komitee die getuienis wat by die ondersoek voorgelê is, oorweeg ten einde te besluit of die huisbouer op die aanklag skuldig bevind moet word.

(13) Die komitee moet die huisbouer en die betrokke behuisingsverbruiker van sy bevinding verwittig.

(14) Die komitee kan te eniger tyd om voldoende rede die ondersoek verdaag tot 'n datum wat die komitee bepaal.

Straf

6.(1) Indien die komitee die huisbouer ingevolge regulasie 5(12) op 'n aanklag skuldig bevind het, moet hy-

(a) die aanklaer die geleentheid gee om te bewys of die huisbouer vantevore deur die komitee skuldig bevind is; en

(b) die huisbouer die geleentheid gee om getuienis ter versagting aan te bied, en die huisbouer en die aanklaer die geleentheid gee om die komitee toe te spreek in verband met die straf wat die komitee die huisbouer moet oplê.

(2) 'n Sertifikaat onderteken deur die hoof- uitvoerende beampte wat voorgee 'n uittreksel te wees uit die notule van die verrigtinge van die komitee en wat die besonderhede vermeld van die aanklag wat teen die huisbouer ingebring is, van die skuldigbevinding van die huisbouer en van die straf wat die huisbouer opgelê is deur die komitee, is by voorlegging daarvan deur die aanklaer aan die komitee, in die afwesigheid van getuienis tot die teendeel voldoende bewys dat die huisbouer vantevore skuldig bevind is, tot tyd en wyl die huisbouer bewys dat hy nie aldus skuldig bevind is nie.

(3) Nadat subregulasie (2) nagekom is, moet die komitee, behoudens regulasie 5(14), die huisbouer 'n straf oplê en die huisbouer en enige behuisingsverbruiker wat geraak word, dienooreenkomstig inlig.

(4) Die strawwe wat opgelê kan word, is -

(a) 'n waarskuwing;

(b) 'n boete van hoogstens R25 000; of

(c) intrekking van registrasie.

(5) Indien 'n huisbouer die beslissing van die komitee of 'n straf opgelê deur die komitee in hersiening wil laat neem of appél wil aanteken ingevolge artikel 22(1) of (2) van die Wet, moet die huisbouer die Raad van sy voornemens in kennis stel binne 30 dae na die uitreiking van die besluit of straf.

(6) Indien die komitee die registrasie van 'n huisbouer intrek ingevolge artikel 11(1) van die Wet, moet die Raad die volgende in die *Staatskoerant* publiseer -

(i) die name van sodanige maatskappye, beslote korporasies, trusts, vennootskappe of alleenhandelaars;

(ii) die name en identiteitsnommers van die direkteure, lede, trustees of vennote; en

(iii) die redes vir sodanige intrekking van registrasie.

(7) Indien 'n boete opgelê is, mag die komitee beveel dat 'n deel van die boete, maar hoogstens 80 persent daarvan, aangewend word, behoudens afhandeling soos in subregulasie (5) beoog as betaling van vergoeding aan 'n behuisingsverbruiker wat geldelike verlies gely het as gevolg van die huisbouer se oortreding van die Wet, aangewend word.

(8) 'n Boete deur die komitee opgelê, moet betaal word binne 30 dae na kennisgewing aan die huisbouer, by gebreke waarvan die huisbouer se registrasie outomaties opgeskort word.

(9) Indien die boete nie binne 60 dae betaal is nie, mag die Raad kragtens artikel 11(1)(c) van die Wet optree.

(10) Enige persoon wat regstreeks geraak word deur die besluit van die komitee, mag binne 30 dae na kennisgewing van die besluit die komitee skriftelik versoek om skriftelik redes vir die besluit van die komitee te verstrek.

(11) 'n Persoon geraak deur die besluit van die komitee kan 'n afskrif van die oorkonde van die verrigtinge van die komitee aanvra.

Getuies en bywoning

7.(1) Die komitee mag uit eie beweging of op versoek van die huisbouer of die aanklaer enigiemand dagvaar om by 'n ondersoek aanwesig te wees ten einde getuienis te lewer en om by sodanige ondersoek enige boek of ander dokument wat sodanige persoon in sy of haar besit of bewaring of onder sy of haar beheer het, of vermoedelik of na bewering in sy of haar besit of bewaring of onder sy of haar beheer het en wat betrekking het op die aanklag wat die onderwerp van die ondersoek is, voor te lê.

(2) Die komitee kan sekerheid vir die koste van die bywoning van 'n bepaalde getuie vereis.

(3) Behoudens 'n besluit van die komitee kan die Raad 'n gedagvaarde getuie vir die Raad wat by die ondersoek aanwesig is, die redelike gelde betaal as wat die Raad van tyd tot tyd in die algemeen of in 'n bepaalde geval bepaal.

(4) Niemand -

(a) wat behoorlik gedagvaar is om by 'n ondersoek aanwesig te wees, mag sonder 'n wettige rede versuim om aldus aanwesig te wees nie;

(b) wat as getuie by 'n ondersoek geroep is, mag sonder 'n wettige rede weier om beëdig te word of 'n bevestiging af te lê of om 'n boek of ander dokument voor te lê of om enige vraag te beantwoord wat hy of sy moet voorlê of beantwoord nie.

(5) Indien iemand versuim om aan subregulasie (4) te voldoen, is hy of sy skuldig aan 'n misdryf ingevolge artikel 27(1) van die Wet en by skuldigbevinding strafbaar met 'n boete van hoogstens R25 000 of gevangenisstraf van hoogstens een jaar.

Verteenwoordiging

8. 'n Huisbouer moet in dissiplinêre verrigtinge verteenwoordig word deur die voorsitter, besturende direkteur, hoof- uitvoerende beampte of besturende lid van die huisbouer of sodanige ander persoon as wat deur die Raad in enige bepaalde geval in die kennisgewing beoog in regulasie 3(3) of die dagvaarding beoog in regulasie 3(8), bepaal word.

Aanhangsel 1

Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998

(Wet No. 95 van 1998)

Vorm van dagvaarding beoog in regulasies 3(8) en 4(1) en voorgeskryf kragtens artikel 27(1) van die Wet.

Aan .....

U word hierby gedagvaar om op ..... 19 om .....h ..... voor 'n dissiplinêre komitee van die Nasionale Huisbouersregistrasieraad te verskyn vir doeleindes van 'n ondersoek na onbehoorlike gedrag deur u en om die volgende boeke en dokumente op gemelde tyd en plek voor te lê .....

Die aanklag teen u, waarna op gemelde tyd en plek ondersoek ingestel sal word en waarvan u reeds skriftelik deur die Raad in kennis gestel is op..... is die volgende .....

Indien u sonder 'n wettige rede versuim om op bogenoemde tyd en plek aanwesig te wees, is u skuldig aan 'n misdryf ingevolge regulasie 7(5) van Regulasie No. ..... van 1999 en by skuldigbevinding strafbaar met 'n boete van hoogstens R25 000 of hoogstens een jaar gevangenisstraf.

Geteken te.....op..... 19.....

.....

Besturende Direkteur

Nasionale Huisbouersregistrasieraad

No. R. 1410 1 December 1999

HOUSING CONSUMERS PROTECTION MEASURES ACT, 1998

NHBRC REGISTRATION FEES

The Minister of Housing has, after consultation with the National Home Builders Registration Council, under section 7(2)(a) of the Housing Consumer Protection Measures Act, 1998 (Act No. 95 of 1998), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations, "the Act" means the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998).

2. The initial application fee upon application being made for registration under the Act, is R750.

3. The initial registration fee for registration under the Act, is R600.

4. The annual registration renewal fee is R600.

Value Added Tax

5. The fees prescribed in regulations 2, 3 and 4 includes Value Added Tax in terms of the Value Added Tax Act, 1991 (Act No. 89 of 1991).

No. R. 1410 **1 Desember 1999**

WET OP BESKERMINGSMAATREËLS VIR BEHUISINGSVERBRUIKERS, 1998 NHBRR REGISTRASIE GELDE

Die Minister van Behuising het, na oorleg met die Nasionale Huisbouersregistrasieraad, kragtens artikel 7(2)(a) van die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998), die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie regulasies beteken "die Wet" die Wet op Beskermingsmaatreëls vir Behuisingsverbruikers, 1998 (Wet No. 95 van 1998).

2. Die aanvanklike aansoekgeld, wanneer aansoek om registrasie gedoen word kragtens die Wet, is R750.

3. Die aanvanklike registrasiegeld vir registrasie kragtens die Wet, is R600.

4. Die jaarlikse hernuwingsgeld is R600.

Belasting op Toegevoegde Waarde

5. Die gelde voorgeskryf in regulasies 2, 3 en 4 sluit in Belasting op Toegevoegde Waarde ingevolge die Wet op Belasting op Toegevoegde Waarde, 1991 (Wet No. 89 van 1991).

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