

No. 355

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

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

A "housing development project" means, for the purposes of the Act and these regulations, any project or phase of a project contemplated in section 5(4)(c) of the Act and approved by a provincial housing development board from the date of commencement of section 18(3) of the Act.

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

### **Submission for project enrolment**

2. (1) Where a provincial housing development board, in terms of an agreement contemplated in section 5(4)(c) of the Act, conditionally approves a housing development project:

- (a) it must approve it subject to enrolment of the project and, in the case of a developer not registered with the Council, registration of the developer with the Council;
- (b) it must notify the Council by duly completing and submitting the form in Annexure 1; and
- (c) the Council shall enter the relevant details into its records.

(2) A provincial housing development board shall not conditionally approve any project unless such projects are accompanied with a preliminary geo-technical survey as specified in terms of Annexure 2.

(3) A provincial housing development board shall not conditionally approve any project using non-standardised building systems or rational design unless such systems:

- (a) Have been Agrément approved and the developer is the holder or a licensee of the system and is an accredited contractor with the Council in terms of Rule 10 of the Council's Rules promulgated by Government Notice No. R. 1408 of 1999; or
- (b) Have been approved by the Council, including Mantag certified building systems, in terms of Rule 11 of the Council's Rules promulgated by Government Notice No. R. 1408 of 1999.

3. A home builder, upon conditional approval as contemplated in regulation 2(1), must submit the housing development project for enrolment in terms of section 14(2) in the form of Annexure 3 accompanied with:

- (a) proof of acceptance by the provincial housing development board of land

availability signed by the parties which may be subject to suspensive or resolute conditions;

- (b) proof of an undertaking by the municipality concerned to take over the services of the project in accordance with the standard requirements;
- (c) a competent person certified preliminary geo-technical survey in the form of Annexure 2; and
- (d) competent person certified house types in the form of Annexure 4.

#### **Home builder deemed registration status**

4. (1) Where a registered home builder submits an application for a project enrolment to the Council in terms of section 14(2) of the Act, the Council shall deem that home builder to be a home builder registered in terms of section 10(6)(b) of the Act, as amended.

(2) Where a home builder contracts a subcontracting home builder to construct one or more complete homes:

- (a) such a subcontracting home builder must be registered in terms of section 10 of the Act; and
- (b) the Council shall deem such a subcontracting home builder to be a home builder in terms of section 10(6)(a) of the Act as amended.

#### **Technical evaluation**

5. The Council shall consider the application for project enrolment with a view to assisting the home builder to comply with the home builder's obligations in terms of section 13(2)(a) of the Act.

#### **Financial evaluation**

6. (1) The home builder when making an application to the Council for project enrolment in

accordance with regulation 3 above, shall submit financial details of the housing development project to the Council, including:

- (a) the home builder's banking details;
- (b) number of subsidies in each subsidy band and the aggregate amount thereof and details of the applicability of the geo-technical allowance;
- (c) the price of serviced land, top structures and total purchase price;
- (d) copies of elemental cost breakdown and cash flow projections;
- (e) anticipated commencement and completion dates for the housing development project; and
- (f) any other financial or management information required by the Council.

(2) In order to prevent housing consumers and the Council from being exposed to unacceptable risks, the Council in view of its obligation in section 10(4) of the Act:

- (a) Shall review the financial and management capacity of the home builder in relation to this specific housing development project; and
- (b) May request any suretyship, guarantee or indemnity that the Council may at its discretion deem necessary.

#### **Approval of project enrolment**

7. (1) The Council may, in respect of such application made pursuant to regulation 3 above:

- (a) Approve the housing development project for enrolment;
- (b) Approve the housing development project subject to such conditions as the Council may consider appropriate;

- (c) Request further information from the home builder; or
- (d) Reject the application.

(2) If the Council intends to approve the enrolment of the housing development project subject to conditions or to reject the enrolment, the Council must notify and inform the home builder and the PHDB of the Council's reasons in this regard.

(3) A decision of the Council notified in terms of subregulation (2) takes effect –

- (a) On receipt of written acceptance of the relevant conditions by the home builder; or
  - (b) 30 days after it has been notified to the home builder, unless the home builder exercises its rights, in terms of section 10(9) of the Act, to make written representations to the Council.
- (4) On approval of the project enrolment, the home builder must provide updated cashflow projections on a quarterly basis.

#### **Issuing the project enrolment certificate**

8. Where a housing development project is approved or approved subject to conditions, the Council must

- (a) issue to the home builder a single project enrolment certificate in the form of Annexure 5 in terms of section 14(2)(c) of the Act; and
- (b) forward a copy to the provincial housing development board.

#### **PHDB Approval**

9. On receipt of a copy of the project enrolment certificate, the provincial housing development board may approve the housing development project subject to any conditions required by Council and subsequently enter into an agreement with the home builder.