

## Reprint

as at 7 December 2007

# Securities Act (Residential Property Developments) Exemption Notice 1999

(SR 1999/105)

Securities Act (Residential Property Developments) Exemption Notice 1999:  
revoked, on 7 December 2007, by clause 9 of the Securities Act (Real Property  
Developments) Exemption Notice 2007 (SR 2007/378).

PURSUANT to the Securities Act 1978, the Securities Commission  
gives the following notice.

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#### Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989  
have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together  
with other explanatory material about this eprint.

**This notice is administered in the Securities Commission.**

**1 Title and commencement**

- (1) This notice may be cited as the Securities Act (Residential Property Developments) Exemption Notice 1999.
- (2) This notice comes into force on the day after the date of its notification in the *Gazette*.

**2 Interpretation**

- (1) In this notice, unless the context otherwise requires,—

**Act** means the Securities Act 1978

**Communal facilities**—

- (a) Means the land within a development designated by a developer or the society for use by the owners or certain classes of owners of residential properties; and
- (b) Includes chattels, fixtures, and fittings used, or intended, adopted, or designed for use, in connection with the use of the land by those owners:

**Developer** means each person promoting, managing, or carrying out a development

**Development** means the subdivision of land into residential properties

**Lease**, in relation to the lease by a society of communal facilities in a development, means lease pursuant to a memorandum of lease registered under the Land Transfer Act 1952

**Regulations** means the Securities Regulations 1983

**Residential property** means a residential property for which a certificate of title has been or will be issued—

- (a) For an estate in fee simple under the Land Transfer Act 1952; or
- (b) For a stratum estate under the Unit Titles Act 1972:

**Rules** means the rules of a society

**Sale agreement** means an agreement for the sale of a residential property adopted by a developer as vendor

**Society** means a society incorporated under the Incorporated Societies Act 1908 that—

- (a) Owns, or will own, the communal facilities in a development; or
- (b) Leases, or will lease, the communal facilities in a development:

**Specified security** means a participatory security in the form of membership of a society that confers rights to participate in ownership and use of all or part of the communal facilities in a development.

- (2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

### **3 Exemptions**

Every developer and society, and every person acting on behalf of either a developer or a society, are exempted from sections 33, 37, 37A, 38A, 53E(2), 54, and 54B(3) of the Act in respect of specified securities of which that developer or society is an issuer.

### **4 Conditions**

The exemptions granted by clause 3 are subject to the conditions that—

- (a) Subscribers for specified securities have, before subscription, been supplied by the developer with a copy of each of the following documents:
- (i) The rules (including a copy of any agreement for the management of the society's affairs):
  - (ii) A specimen of any deed or agreement providing for the transfer of communal facilities from the developer to the society:
  - (iii) A specimen of the sale agreement:
  - (iv) A specimen of any lease agreement for communal facilities; and
- (b) The specified securities are subscribed for by entering into a sale agreement with the developer; and
- (c) Deposit monies paid by a subscriber for specified securities are held in any of the following trust accounts until the sale agreement becomes unconditional:
- (i) A trust account operated by a solicitor under the Law Practitioners Act 1982; or
  - (ii) A trust account operated by a real estate agent under the Real Estate Agents Act 1976; or

- (iii) A trust account operated by a trustee company under the Trustee Companies Act 1967; and
- (d) No settlement of a sale agreement is completed until,—
  - (i) If the developer represents or agrees that communal facilities will be held by a society, the communal facilities are owned or leased by the society; and
  - (ii) If land is included in the communal facilities, the society holds a certificate of title for an estate in fee simple, or a leasehold estate, under the Land Transfer Act 1952 or for a stratum estate under the Unit Titles Act 1972; and
- (e) Where communal facilities are leased, or to be leased, by the society,—
  - (i) The communal facilities are owned, or to be owned, by subscribers for specified securities; and
  - (ii) Interests in the communal facilities can only be purchased with a purchase of residential property; and
- (f) The developer provides to a prospective purchaser of residential property, within 5 business days after receiving a request, a copy of the most recent financial statements of the society; and
- (g) The financial statements of the society are audited annually and distributed to members of the society as soon as reasonably practicable after each audit is completed; and
- (h) All monies paid to the society by its members under the rules are applied solely for the purposes of—
  - (i) Holding, administering, and maintaining the communal facilities (including issuing licences to members of the society that confer rights solely on those members to use the communal facilities and administering those licences in accordance with the rules); or
  - (ii) Administering and enforcing a scheme for the regulation and control of matters relating to the use and enjoyment, repair, decoration and land-

- scaping of, and provision of services to, residential properties; and
- (i) The rules provide that—
    - (i) Members of the society have the right to use and enjoy the communal facilities in accordance with the rules, and have the right to vote at meetings of members of the society; and
    - (ii) On a winding up of the society, any interest of the society in communal facilities vests in the members of the society as tenants in common; and
    - (iii) Levies, fees, or subscriptions payable to the society by its members are determined by a committee of members of the society constituted or appointed under the rules; and
  - (j) The society does not have as objects—
    - (i) The carrying on of trading activities; or
    - (ii) The carrying on of business for profit.

## **5 Revocation**

The Securities Act (Residential Property Developments) Exemption Notice 1997<sup>1</sup> is revoked.

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### **Explanatory note**

*This note is not part of the notice, but is intended to indicate its general effect.*

This notice comes into force on the day after the date of its notification in the *Gazette*.

It applies to participatory securities in the form of membership of an incorporated society that confers ownership rights and rights to use communal facilities in a residential development. The notice applies where communal facilities are either—

- (a) Owned by the society; or
- (b) Leased by the society, with the underlying title to any land being owned by members of the society.

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<sup>1</sup> SR 1997/249

The effect of the notice is that both the developer and the society are exempted from the following provisions of the Securities Act 1978:

- sections 33, 37, and 37A, which contain the prospectus and investment statement requirements of the Act
- section 38A, which relates to statements in advertisements by experts
- section 53E(2), which requires that an issuer of participatory securities ensure that the financial statements of the scheme are audited annually by an auditor if required to do so by the statutory supervisor
- section 54, which relates to certification of securities
- section 54B(3), which requires that an issuer send copies of certain documents to securities holders on request.

This notice replaces the Securities Act (Residential Property Developments) Exemption Notice 1997, which applied only where the society owns, as distinct from leases, the communal facilities of a residential development.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 15 April 1999.

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## **Notes**

### **1 *General***

This is an eprint of the Securities Act (Residential Property Developments) Exemption Notice 1999. It incorporates all the amendments to the Securities Act (Residential Property Developments) Exemption Notice 1999 as at 7 December 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

### **2 *About this eprint***

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

### **3 *List of amendments incorporated in this eprint (most recent first)***

Securities Act (Real Property Developments) Exemption Notice 2007 (SR 2007/378): clause 9

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