

## COMMUNAL PROPERTY ASSOCIATIONS BILL, 1995

To provide for a form of juristic person, to be known as a communal property association, to acquire, hold and manage property on a basis agreed to by members of a community in terms of a written constitution adopted through democratic participation and due process, and complying with principles of non-discrimination and accountability; and to provide for incidental matters.

WHEREAS it is desirable that disadvantaged communities should be able to establish appropriate legal institutions through which they may acquire, hold and manage property in common;

AND WHEREAS it is necessary to ensure that such institutions are established and managed in a manner which is non-discriminatory, equitable, democratic, and accountable to their members;

AND WHEREAS it is necessary to ensure that members of such institutions are protected against abuse of power by other members;

NOW THEREFORE BE IT ENACTED by the Parliament of the Republic of South Africa as follows -

## Definitions

1. In this Act, unless the context otherwise indicates -

- (i) "association" means a communal property association registered or to be registered by the Registrar under section 8(2); (xiii)
- (ii) "authorised officer" means a person designated as such by the Registrar; (ii)
- (iii) "committee" means a committee elected by the members of an association to manage the affairs of an association; (vii)
- (iv) "community" means a group of persons, including a tribe or portion of a tribe, who wish to have their rights to or in certain property determined by shared rules under a written constitution and who wish or are required to form an association in terms of section 2; (iii)
- (v) "constitution" means a constitution of an association which has been registered by the Registrar in terms of section 8; (v)
- (vi) "holding of property in common" means the acquiring, holding and managing of property by an association on behalf of its members, in accordance with the terms of a constitution; (iv)
- (vii) "members" means the members of an association or the members of a community, as the case may be; (viii)
- (viii) "Minister" means the Minister of Land Affairs; (ix)
- (ix) "prescribed" means prescribed by regulation; (xiv)

- (x) "property" includes movable and immovable property and includes any right or interest in and to movable or immovable property or any part thereof; (i)
- (xi) "register" means the register of associations to be kept by the Registrar in terms of section 3(4)(d); (x)
- (xii) "Registrar" means the Registrar of Communal Property Associations appointed in terms of section 3(2); (xi)
- (xiii) "similar entity" means a trust, association of persons, or company registered in terms of section 21 of the Companies Act, 1973 (Act No. 61 of 1973); (xii)
- (xiv) "this Act" includes any regulations made in terms of this Act. (vi)

#### Application of Act

2.(1) The provisions of this Act shall apply to a community -

- (a) which by order of the Land Claims Court is entitled to restitution under the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), where that Court has ordered restitution on condition that an association be formed in accordance with the provisions of this Act;
- (b) entitled to or receiving property or other assistance from the State in terms of an agreement or in terms of any law, on condition that an association be formed in accordance with the provisions of this Act;
- (c) subject to the provisions of subsection (2), to which any property has been donated, sold or otherwise disposed of by any other person on condition that an association be formed in accordance with the provisions of this Act;
- (d) subject to the provisions of subsection (2), which wishes to form an association in accordance with the provisions of this Act.

(2) The Minister may, with due regard to the intent and purposes of this Act, approve a community contemplated in paragraph (c) or (d) for purposes of the application of this Act to that community, if he is satisfied that the community is disadvantaged and that it is in the public interest that such approval be given.

(3) The Minister may on application by a similar entity, and having had due regard to the intent and purposes of this Act and the public interest, by notice in the Gazette, and subject to such qualifications or conditions as he or she considers desirable, make the provisions of section 8, 9, 10, 11 or 12, or any subsection thereof, applicable to such entity.

(4) For the purposes of the application of any section of this Act to an entity in respect of which a notice has been published in terms of subsection (3), all references to an association shall be deemed to be references to such an entity.

(5) Where a community has, prior to the commencement of this Act, established a similar entity through a democratic process, the Registrar

may, if such community wishes to establish an association contemplated in this Act, exempt such community from such provisions of section 6, 7 or 8 as may, in the opinion of the Registrar, place an unnecessary burden on the community, having regard to the procedure that was followed by the community in establishing such entity.

#### Communal Property Associations Office and appointment of Registrar

3.(1) An office shall be established within the Department of Land Affairs to be called the Communal Property Associations Office.

(2) The Minister shall, subject to the laws governing the public service, appoint a person as the Registrar of Communal Property Associations.

(3) The Registrar may establish a regional office for any prescribed area and may appoint a Deputy Registrar for each such office, to perform the functions of the Registrar in such office, subject to the control of the Registrar.

(4) The Registrar shall be responsible for the administration of the Communal Property Associations Office and any regional office, and shall -

- (a) provide assistance to communities and associations for the purposes of this Act;
- (b) register associations, subject to the provisions of this Act;
- (c) ensure compliance by associations with the provisions of this Act;
- (d) keep a register of registered associations and entities to which provisions of this Act have been made applicable in terms of section 2(3); and
- (e) on request provide members of the public with information contained on the register.

#### Seal of Communal Property Associations Office

4. There shall be a seal of the Communal Property Associations Office and the impression of such seal shall be judicially noted in evidence.

#### Exemption from liability

5. No act or omission of whatever nature by the Registrar or any officer or other person performing duties under the authority of the Registrar under this Act, shall subject the State, or the Registrar, or any such officer or person to any liability for any loss or damage sustained by any person as a result of any such act or omission, unless such act or omission was in bad faith or was due to want of reasonable care or diligence.

#### Preparation of constitutions

6.(1) A community wishing to procure the registration of an association under this Act may apply to the Registrar for assistance in the

preparation of a draft constitution.

(2) The Registrar shall, after receiving an application in terms of subsection (1), provide such community with such assistance as may be required and is available for the preparation of a draft constitution.

(3) A community may, having prepared a draft constitution, submit it to the Registrar for consideration.

(4) The Registrar may suggest amendments to be made to a draft constitution submitted to him or her in order to comply with the provisions of section 9, and shall notify the community of the reasons for such suggestions.

#### Adoption of constitutions

7.(1) When a community wishes to adopt a constitution it shall notify the Registrar accordingly.

(2) The Registrar shall, on receipt of notification in terms of subsection (1), direct the community to convene a meeting or meetings in such manner as may be directed by him or her or as may be prescribed generally for adoption of the constitution.

(3) The Registrar shall instruct an authorised officer to attend the meeting or meetings contemplated in subsection (1), to produce a minute of the proceedings, to witness the adoption of the constitution and to prepare a report setting out his or her observations in relation to the following:

- (a) Whether the notice of the meeting was effective in ensuring the presence of members of the community at the meeting;
- (b) the number of adult members of the community who were present or represented at the meeting;
- (c) the number of adult members of the community who voted in favour of and the number who voted against the adoption of the constitution or any specific provisions thereof;
- (d) whether the interests of any person or group of persons are likely to be adversely affected as a result of the adoption of the constitution;
- (e) the views of any dissenting persons; and
- (f) any other matter which the Minister may prescribe or which may be relevant to the exercise of the Registrar's discretion.

(4) The community shall, as soon as practicable after the adoption of the constitution, submit it together with the prescribed information to the Registrar for registration.

(5) Any person claiming to have been excluded from participation in the process of preparation and adoption of the constitution or claiming that the process was not fair may lodge a complaint with the Registrar who shall consider such complaint in deciding whether or not to register the association.

#### Registration of associations and constitutions

8.(1) The Registrar shall consider an application made to the Registrar for registration of an association and its constitution together with any prescribed information and the report referred to in section 7(3).

(2) The Registrar shall register an association unless -

- (a) the provisions of this Act do not apply to the community on account of section 2(1);
- (b) the association does not have as its main object the holding of property in common;
- (c) the draft constitution does not comply with the principles set out in section 9;
- (d) the draft constitution does not contain provisions dealing with the matters referred to in the Schedule;
- (e) the meeting or meetings referred to in section 7 were not attended by a substantial number of the members of the community; or
- (f) the resolution to adopt the draft constitution was not supported by the majority of the members of the community present or represented at the meeting or meetings:

Provided that the Registrar may register an association if he or she is satisfied that -

- (i) there has been substantial compliance with the provisions of paragraphs (a) to (f) of this subsection;
- (ii) the constitution reflects the view of the majority of the members of the association; and
- (iii) the constitution has been adopted through a process which has been substantially fair and inclusive.

(3) If the Registrar is satisfied that the requirements of subsection (2) have been met, he or she shall in the prescribed manner register the association, allocate a registration number, and issue a certificate of registration.

(4) If the Registrar is not satisfied that all the requirements set out in subsection (2) have been met, he or she shall notify the community of the steps to be taken to procure registration of the association.

(5) The Registrar may take such steps as he or she considers appropriate to assist a community to deal with any issues which require to be addressed in order to procure registration of the association.

(6) The registration of an association in terms of subsection (2) shall have the effect that -

- (a) the association shall be established as a juristic person, with the capacity to sue or be sued;
- (b) the association will have the capacity to acquire rights and incur obligations in its own right, in accordance with its constitution;
- (c) the association will have the capacity, subject to the provisions

of its constitution, to -

- (i) acquire immovable property and real rights therein;
  - (ii) encumber such immovable property or real rights by mortgage, servitude, or lease or in any other manner; and
  - (iii) alienate or dispose of such immovable property or real right;
- (d) the association will have perpetual succession regardless of changes in its membership; and
- (e) the constitution will establish a legally binding agreement between the association and its members.

(7) A person appointed to a committee of an association shall stand in a fiduciary relationship to the members of the association.

(8) The laws governing the establishment of townships shall, subject to the approval of the Minister on such conditions as he or she may determine on application made to him or her in the prescribed manner, not apply in respect of immovable property registered in the name of an association registered under this Act.

(9) An association registered under this Act shall reflect on all correspondence and contracts the fact that it is so registered.

(10) No amendment to a constitution of an association registered under this Act shall be valid or binding until it has been registered by the Registrar.

(11) The provisions of sections 6 and 7 and subsections (1) to (5) of this section, shall apply mutatis mutandis to any proposed amendment to a constitution of an association registered under this Act: Provided that the Registrar shall waive compliance with the provisions of section 7 if at any time he or she is satisfied that the amendment was adopted in terms of the constitution, that the nature of the amendment is such that compliance with those provisions is not necessary, and that the amendment does not have a material adverse effect on the rights of members.

Principles to be accommodated in constitutions

9.(1) The principles of equality, accountability and fairness shall form the basis of legal relationships within an association, and accordingly the Registrar shall not register an association unless he or she is satisfied that the draft constitution is consistent with the following general principles:

- (a) Fair and inclusive decision-making processes, in that -
  - (i) all members are afforded a fair opportunity to participate in the decision-making processes of the association;
  - (ii) any decision to amend the constitution or dissolve the association, or to dispose of or to encumber the property of the association, requires an inclusive decision making process; and

- (iii) the membership of any person may only be terminated on reasonable grounds by the association after the matter has been considered at a fair hearing at which the member was given an opportunity to present his or her case;
- (b) equality of membership, in that -
  - (i) there is no discrimination against any prospective or existing member of the community on the basis of race or gender;
  - (ii) where different classes of membership are created -
    - (aa) the basis for differentiation may only be legitimate and equitable criteria, and the differentiation is compatible with the overriding principle of equality;
    - (bb) where a community already occupies land, different classes shall not create different rights to land or resources among those members of the community who occupy the land, where no such differentiation existed previously; and
    - (cc) all members within a class of membership have equal rights;
- (c) democratic processes, in that all members have the right -
  - (i) to receive adequate notice of all general meetings of members of the association;
  - (ii) to attend and speak and participate in the voting at any general meeting;
  - (iii) to receive copies of minutes or to have other reasonable access to records of decisions taken at general meetings;
  - (iv) to inspect and make copies of the financial statements and records of the association; and
  - (v) to have access to a copy of the constitution;
- (d) fair access to the property of the association, in that -
  - (i) the association shall manage property owned, controlled or held by it for the benefit of the members in a participatory and non-discriminatory manner;
  - (ii) a member may only be excluded from access to or use of any part of the association's property which has been allocated for such member's exclusive or the communal use in accordance with the procedures set out in the constitution; and
  - (iii) the association may not sell or encumber the property of the association, or any substantial part of it, without the consent of a majority of the members, at a general meeting of the association;
- (e) accountability and transparency, in that -

- (i) accountability by the committee or committees to the members of the association is promoted;
- (ii) the financial records of the association shall be subject to an annual audit by an independent practising chartered accountant or some other person acceptable to the Registrar;
- (iii) all the cash of the association shall be deposited in an account opened in the name of the association with a bank registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank registered in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993), or with the Post Office Savings Bank, contemplated in section 52 of the Post Office Act, 1958 (Act No. 44 of 1958), or such other institution as may be approved by the Registrar;
- (iv) the association may not purchase or acquire for consideration shares other than shares which are listed on a licensed stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);
- (v) there shall be effective financial management and recording of the transactions of the association;
- (vi) the committee members shall have fiduciary responsibilities in relation to the association and its members, and shall exercise their powers in the best interests of all the members of the association, without any advantage to themselves in comparison with other members who are similarly placed.

(2) The Minister may prescribe additional principles to govern a constitution.

(3) Every constitution shall, once it has been registered, be deemed to contain the principles set out in subsection (1) and any additional principles which have been prescribed in terms of subsection (2).

(4) The constitution of an association shall be interpreted in a manner which is consistent with the spirit and objects of the principles referred to in subsection (3).

#### Information, conciliation and other assistance

10.(1) The Registrar may have forms, pamphlets and other documents prepared and distributed in order to promote the achievement of the objects of this Act.

(2) The Registrar may, of his or her own accord or at the request of a community, an association or any member thereof, appoint a conciliator acceptable to the parties to a dispute, to assist in resolving any issues for the purpose of the adoption of a constitution or to resolve a dispute between an association and its members: Provided that if the parties to the dispute do not reach agreement on the person to be appointed, the Registrar may appoint a person who has adequate experience or knowledge in conciliating community disputes.

(3) A conciliator appointed in terms of subsection (2) shall attempt to resolve the dispute in one or more of the following ways:

- (a) By mediating the dispute;
- (b) by fact finding relevant to the resolution of the dispute;
- (c) by making a recommendation to the parties to the dispute;
- (d) in any other manner that he or she considers appropriate.

(4) The conciliator shall report to the Registrar and the parties on the results of his or her conciliation and recommendations in relation thereto.

(5) All discussions taking place and all disclosures and submissions made during the conciliation process shall be privileged, unless the parties agree to the contrary.

(6) The Registrar may from time to time appoint persons or organisations acceptable to a community and with relevant knowledge or expertise to provide assistance and support to such community for the purposes contemplated in section 6.

(7) Any person contemplated in subsection (2) or (6) who is not in the full-time employ of the State may, from moneys appropriated by Parliament for this purpose, be paid such remuneration and allowances in respect of the services rendered as may be prescribed by the Minister in consultation with the Minister of Finance.

(8) The Minister may, in consultation with the Minister of Finance and after consultation with such other Ministers as he or she considers appropriate, institute other programmes for the provision of assistance to communities or associations for the purposes of this Act.

#### Monitoring and inspection

11.(1) An association registered under this Act shall be obliged at such times as may be prescribed to furnish prescribed documents and information to the Registrar in order to enable him or her to monitor compliance with the provisions of the constitution and this Act.

(2) The Registrar may undertake an inspection of the affairs of the association.

(3) The Registrar may, for the purposes of this section -

- (a) inspect and remove for copying any records, reports and other documents relating to the affairs of the association;
- (b) subpoena persons who, in his or her opinion, may have relevant information or documentation in respect of the affairs of the association to appear before him or her to provide information or documentation in relation to the affairs of the association, if the attendance of such persons cannot reasonably be procured otherwise.

(4) If a dispute arises within an association the Registrar may, of his or her own accord, or at the request of a member of the association -

- (a) undertake an enquiry into the activities of the association, in which event he or she shall take reasonable steps to ensure

that interested parties are made aware of the enquiry and of its outcome;

- (b) advise the association and the members of their respective rights and obligations;
- (c) make a conciliator contemplated in section 10(2) available to assist in the resolution of the dispute;
- (d) require the members to conduct an election for a committee, if the integrity, impartiality or effectiveness of the committee or any member of the committee is in question, and the Registrar is of the opinion that in the interests of fairness a new election is desirable;
- (e) initiate proceedings contemplated in section 13; or
- (f) take such other reasonable measures as he or she considers appropriate in the circumstances:

Provided that the Registrar shall be guided by the intention of having the dispute resolved in accordance with the provisions of the constitution of the association.

(5) The identity of a member making a request in terms of subsection (4) or the fact that a request has been made by a member need not be disclosed if there are reasonable grounds to believe that such member may be victimised.

(6) If the membership of a member has been terminated, the association shall inform the Registrar and provide the Registrar with the prescribed information relating to the termination.

#### Approval for certain transactions

12.(1) An association may not dispose of, encumber or conclude any prescribed transaction in respect of the whole or any part of the immovable property of the association, or of any real rights in respect thereof, without the consent of a general meeting of members.

(2) Such consent may be given in respect of a series of transactions, without identifying each individual transaction.

(3) Any disposal, mortgage, encumbrance or prescribed transaction in contravention of subsection (1) shall be voidable.

(4) A member who alleges that an association has concluded a transaction contrary to the provisions of subsection (1) may request the Registrar to assist him or her in challenging the validity of such transaction.

(5) The Registrar may, if he or she considers it desirable having regard to the nature and seriousness of the allegation, make a conciliator contemplated in section 10(2) available to assist in the resolution of the dispute.

(6) The Registrar shall, at the request of an association, appoint an authorised officer to attend a general meeting of an association and to take such other steps as may be necessary in order to certify that a transaction referred to in subsection (1) has been duly approved at a

general meeting and in accordance with the constitution of the association.

#### Administration, liquidation and deregistration

13.(1) A division of the Supreme Court and a Magistrate's Court having jurisdiction in respect of the area in which the property of the association is situated may, on application made by the Registrar, an association or any member thereof, or any other interested person, place the association under the administration of the Registrar or grant a liquidation order in respect of an association, where the association, by reason of insolvency or maladministration or for any other cause is unwilling or unable to pay its debts or is unable to meet its obligations, or where it would otherwise be just and equitable in the circumstances.

(2) The Registrar shall, pursuant to an administration order referred to in subsection (1), have such powers to manage the affairs of the association as the Court, subject to the provisions of this Act, may determine.

(3) The Registrar may, upon written application by an association, deregister such an association, if he or she is satisfied that -

- (a) a resolution in favour of deregistration was adopted at a meeting attended by a substantial number of the members of the association;
- (b) the resolution was adopted by a majority of members present or represented at the meeting; and
- (c) all relevant matters which reasonably have to be addressed prior to deregistration, including the way in which the assets and liabilities of the association will be dealt with, have been addressed.

(4) The Minister may make regulations prescribing the procedure to be followed where an order for the administration, liquidation or sequestration of an association is applied for or granted, and setting out the powers and duties of the Court, the Registrar, the association, members and interested parties in those situations.

#### Statutory offenses

14.(1) It shall be an offence for any person -

- (a) in breach of the provisions of a constitution and in the pursuit of power or some other personal gain to grant or purport to grant to any person land or rights in respect of the property of an association or access to such property, thereby affecting the rights of members under the constitution;
- (b) in the pursuit of power or some other personal gain to act in breach of the fiduciary duties referred to in section 8(8);
- (c) to abuse any power or authority vested in him or her by the members of the association by doing any thing or refraining from doing any thing or threatening to do or refrain from doing any thing, in such a manner that the benefits or civil liberties of a member are prejudiced or threatened to be prejudiced;

- (d) to incite or attempt to incite any person to commit the offence referred to in (c);
- (e) in breach of the provisions of a constitution to grant or purport to grant any person land or rights in respect of the property of an association or access to such property, thereby affecting the rights of members under the constitution, after having been warned by the committee to desist from such conduct.

(2) If in any prosecution in terms of subsection (1)(a) it is proved that in breach of a constitution the accused granted or purported to grant any person land or rights in respect of the property of the association, thereby affecting the rights of members under the constitution, it shall be assumed until the contrary is proved that the accused did so in the pursuit of power or some other personal gain.

(3) If in any prosecution in terms of subsection (1)(b) it is proved that the accused acted in breach of the fiduciary duties referred to in section 8(8), it shall be assumed until the contrary is proved that the accused did so in the pursuit of power or some other personal gain.

(4) The Registrar shall refer any report or any information which comes to his or her attention regarding the commission of an offence in terms of subsection (1) to the South African Police Services for investigation.

(5) The investigating officer investigating any contravention of subsection (1) shall, at the request of the Registrar, provide the Registrar with such information relating to the investigation as may be available to the investigating officer.

(6) The Registrar shall, if so requested by the committee or the association -

- (a) take the necessary steps to establish to his or her satisfaction whether the membership of a person has been duly terminated in terms of the constitution; and
- (b) if he or she is satisfied that the membership of the person concerned has been so terminated, issue a certificate to that effect.

(7) In the prosecution under section 1 of the Trespass Act, 1959 (Act No. 6 of 1959) and in any proceedings for the eviction of any person from property owned, controlled or managed by an association, a certificate issued by the Registrar in terms of subsection (6) shall be prima facie proof of the correctness of the contents thereof.

(8) Any person convicted of a contravention of subsection (1) shall be liable to a period of imprisonment not exceeding ten years or a fine, or both such imprisonment and such fine.

#### Delegation of powers and assignment of functions by Registrar

15.(1) The Registrar may -

- (a) delegate to any officer of the Department of Land Affairs any power conferred upon the him or her by or under this Act, either generally or in a particular case;

(b) authorise any such officer to perform any duty assigned to him or her by or under this Act.

(2) Any delegation under this section shall not prevent the exercise of the relevant power by the Registrar himself or herself, who shall be entitled to rescind, review or withdraw any decision or action taken by any person to whom he or she has delegated any power.

Appeals

16. Any interested person aggrieved by a decision of the Registrar may in the prescribed manner appeal to the Minister, who may uphold the appeal in whole or in part and correct the decision, or dismiss the appeal.

Annual report by Registrar

17. The Registrar shall in every calendar year submit to the Minister a report concerning associations and the extent to which the objects of this Act are being achieved, and the Minister shall table the report in Parliament.

Regulations

18.(1) The Minister may make regulations -

- (a) as to any matter which is required or permitted to be prescribed by regulation under this Act;
- (b) prescribing generally any matter which he or she deems necessary or expedient in order to achieve the objects and purposes of this Act.

(2) Any regulation made under subsection (1) may in respect of any contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of R5 000-00 or imprisonment for a period of five years, or both such fine and imprisonment.

Short title

19. This Act shall be called the Communal Property Associations Act, 1995.

SCHEDULE

MATTERS TO BE ADDRESSED IN THE CONSTITUTION OF  
A COMMUNAL PROPERTY ASSOCIATION  
(Section 8(2)(c))

- 1 Name of the association.
- 2 Address of the association.
- 3 Objects of the association, including the identity of the community.
- 4 Land or property to be owned by the association, if known.
- 5 Qualifications for membership of the association.

- 6 Classes of membership (if any) and the rights of members of different classes.
- 7 The rights of members to the use of the association's property.
- 8 Whether membership is based on individuals or families; if based on families, how the family is to be represented in the decision-making of the association.
- 9 The grounds and procedure for terminating membership, and what happens to the rights and property of the member concerned.
- 10 The property: the purposes for which it may be used, and the physical division and allocation of the property.
- 11 Whether members may sell their rights, and if so, to whom.
- 12 What happens to a member's rights on his or her death.
- 13 How the committee is to be elected, its term of office, its powers, the powers of members in relation to decisions made by the committee, the power of members to remove the committee or members of the committee, and payment (if any) of committee members.
- 14 How and when it the Annual General Meeting to be called, the quorum for an Annual General Meeting, and procedure at an Annual General Meeting.
- 15 General Meetings: how and when General Meetings are to be called, the quorum at a General Meeting, and procedure at a General Meeting.
- 16 The powers of the association, and any limitations on them.
- 17 Who is responsible for keeping minutes of meetings, and access to the minutes by members.
- 18 Financial matters: how the moneys of the association will be dealt with, who will have the right to make payments on behalf of the association, how and by whom the financial records will be kept, what provision there will be for independent verification of the financial records, and access to financial information by members.
- 19 How the constitution may be changed.
- 20 How the association may be dissolved, and in that event what will happen to the assets of the association.
- 21 Disciplinary matters, and in particular how corruption, nepotism and offenses referred to in section 14 of the Act are to be dealt with.
- 22 How disputes in the association are to be resolved.

MEMORANDUM ON THE OBJECTS OF THE COMMUNAL PROPERTY  
ASSOCIATIONS BILL, 1995

There is a need for legislation to provide a framework for the registration

of a new form of juristic person to acquire, hold or control property on behalf of and for the benefit of disadvantaged communities.

This Bill is designed to provide a relatively simple and accessible mechanism through which group ownership systems may be recognised. In order to qualify for the benefits of this mechanism, communal property associations must conform to certain basic public standards of fair process, democratic accountability and equality. The Bill accordingly provides a substantive framework to facilitate the formation and registration of this new form of juristic person.

A Registrar is to review the constituting documents of any community wishing to register an association in terms of this Bill to ensure consistency with the principles laid down in the Bill. The Registrar has oversight powers in relation to registered associations and the Registrar's approval will be required prior to amendments being effected to constitutions.

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