

CHIEF REGISTRAR'S CIRCULAR NO. 7 OF 2007

NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT NO. 25 OF 1999)

1. COMMENCEMENT OF THE ACT

The National Heritage Resources Act, 1999 (Act No. 25 of 1999), herein after referred to as the Act, came into operation 1 April 2000.

2. PURPOSE OF THE ACT

The purpose of the Act is, amongst other things, to introduce an integrated and interactive system for the management of the national heritage resources; to establish the South African Heritage Resources Agency; and to provide for matters connected therewith.

3. IMPACT OF ACT ON DEEDS REGISTRATION PROCEDURES

3.1. Establishment of South African Heritage Resources Agency and its Council:

3.1.1. The South African Heritage Resources Agency (herein after referred to as "SAHRA", is established in terms of section 11 of the Act. SAHRA is a body corporate which is capable of suing and being sued in its corporate name.

3.2 Description of South African Heritage Resources Agency in deeds and documents:

SAHRA shall in deeds and documents be described as "The South African Heritage Resources Agency, established in terms of section 11 of Act No. 25 of 1999".

3.3 Notice relating to the protection of heritage resources:

3.3.1. Section 9(10) of the Act stipulates that when—

- (a) a place has been declared a national heritage site or a provincial heritage site under section 27 of the Act;
- (b) a place has been designated a protected area under section 28 of the Act;
- (c) a place has been provisionally protected for a period longer than six months under section 29 of the Act;
- (d) a place has been entered in a heritage register under section 30 of the Act;
- (e) a place has been included in a heritage area under section 31 of the Act;
- (f) a heritage agreement has been entered into in respect of a place for a

- period exceeding six months under section 42 of the Act;
- (g) an order of no development under section 51 (8) has been made in respect of a place,

the Registrar of Deeds in whose deeds registry the land in question is registered, must be furnished by the heritage resources authority concerned with—

- (a) a copy of the notice in the Gazette or the Provincial Gazette;
- (b) the particulars of the protection;
- (c) a copy of any survey, including any diagram or plan, made under section 25 (2) (d); and
- (d) a copy of the relevant order of no development or of a heritage agreement.

3.3.2. The Registrar of Deeds must, in terms of section 9(11) of the Act—

- (a) endorse the title deed of the place in question filed in the deeds office;
- (b) make an entry in the appropriate registers and upon the owner's title deed as soon as it is lodged in the deeds office, relating to the particulars furnished in terms of subsection (10);
- (c) identify the area of the protected place; and
- (d) clearly state the particulars of the protection order or heritage agreement.

(see paragraph 3.5.1 with regard to the endorsement of title deeds).

3.4. Withdrawal of Notice relating to the protection of heritage resources:

3.4.1. The Registrar of Deeds must, in terms of section 9(13) of the Act, be furnished by the heritage resources authority concerned with a copy of a notice or order in the following instances:

- (a) when any notice is amended or withdrawn under section 27 (7) of the Act;
- (b) when the designation of a protected area is withdrawn under section 28 (1) or (2) of the Act;
- (c) when a provisional protection for a period longer than six months is withdrawn under section 29 (1)(b) or section 29 (2)(b) of the Act;
- (d) when an entry in a heritage register is amended or deleted;
- (e) when a place is excluded from a heritage area; or
- (f) when an order of no development is amended or repealed under section 51 (11).

3.4.2. The Registrar of Deeds must make the necessary endorsement upon the relevant title deeds and in the appropriate registers (section 9 (13)(b) of the Act).

(see paragraph 3.5.2 with regard to the endorsement of title deeds).

3.5. Endorsement of title deeds:

3.5.1. Endorsement in terms of section 9(11) of the Act:

- 3.5.1.1. In order to comply with the provisions of section 9(11) of the Act, the Registrar of Deeds must, upon receipt of the documentation referred to in section 9(10) (see paragraph 3.3.1 above), note a caveat against the immovable property concerned to the effect that the title deed of the property must be endorsed whenever it is lodged for an act of registration. A caveat in the above-mentioned regard must contain clear instructions with regard to the endorsement of a title deed of the property concerned.
- 3.5.1.2. Whenever the relevant title deed/s have been lodged for whatever purpose, the same must be endorsed along the following lines:

Endorsement in terms of section 9(11) of Act No. 25 of 1999:

The within-mentioned property has, by notice in **Government/Provincial Gazette *No. , **

- been declared a national heritage site/ provincial heritage site under section 27;
- been designated a protected area under section 28;
- been provisionally protected for a period longer than six months under section 29;
- been entered in a heritage register under section 30;
- been included in a heritage area under section 31;

OR

By virtue of **Government/Provincial Gazette *No. , **

- a heritage agreement has been entered into for a period exceeding six months under section 42;
- an order for no development under section 51(8) has been made

DATE

REGISTRAR OF DEEDS

* Insert number of relevant Government/Provincial Gazette

** Omit whichever is inapplicable

3.5.2. Endorsement in terms of section 9(13)(b) of the Act:

- 3.5.2.1. In compliance to section 9(13)(b) of the Act, the Registrar of Deeds must, upon receipt of the documentation referred to in section 9(13)(a) (see paragraph 3.4.1. above), note a caveat against the immovable property concerned to the effect that the title deed of the property must be endorsed whenever it is lodged for an act of registration. A caveat in the above-mentioned regard must contain clear instructions with regard to the endorsement of a title deed of the property concerned.
- 3.5.2.2. Whenever the relevant title deed/s have been lodged for whatever purpose, the same must be endorsed along the following lines:

Endorsement in terms of section 9(13)(b) of Act No. 25 of 1999:

By virtue of **Notice /Order/Government/Provincial Gazette *No. ,

**

- The notice as published in the Gazette / Provincial Gazette is amended or withdrawn under section 27 (7);
- the designation of a protected area is withdrawn under section 28 (1) or (2);
- a provisional protection for a period longer than six months is withdrawn under section 29 (1) (b) or (2) (b);
- an entry in a heritage register is amended or deleted;
- a place is excluded from a heritage area; or
- an order of no development is amended or repealed under section 51 (11),

DATE

REGISTRAR OF DEEDS

* Insert number of relevant Notice /Order/Government/Provincial Gazette

** Omit whichever is inapplicable

3.6. Transfer or subdivision of heritage sites:

3.6.1. A Registrar of Deeds must, in terms of section 9(9) of the Act, **inform SAHRA or the relevant heritage resources authority (in a notice as prescribed) of the particulars of a registration of transfer or subdivision of any place which is formally protected by such heritage resources authority in terms of Part 1 of Chapter 2 of this Act, within 14 days of such registration.**

3.6.2. The Notice referred to in section 9(9) of the Act is not prescribed and a Notice on the following lines may be drafted:

NOTICE IN TERMS OF SECTION 9(9) OF THE NATIONAL HERITAGE RESOURCES ACT, NO. 25 OF 1999:

The following property which is formally protected by *..... In terms of Part 1 of Chapter 2 of Act No. 25 of 1999, has been **transferred / subdivided.

Details of the above-mentioned **transfer / subdivision is as follows:

- with the registration of a deed of transfer refer to the names, ID numbers and marital status of the transferee/transferor, as well as the new title reference.
- with the registration of a subdivision refer to the name and extent of the new portions after subdivision, as well as the new title references.

DATE

REGISTRAR OF DEEDS

* Insert name of relevant heritage resource authority

** Omit whichever is inapplicable

3.7. Abolishment of National Monuments Council:

3.7.1. The National Monuments Council, established by section 2 of the National Monuments Act, 1969 (Act No. 28 of 1969), is abolished and all its assets, rights, liabilities and obligations shall devolve upon SAHRA without formal transfer and without payment of any duties, taxes, fees or other charges (section 58(2) of the Act).

3.7.2. The Registrar of Deeds must, on submission of the title deed and on application by the authority concerned, endorse the relevant title deeds to reflect the transfer of the assets, rights, liabilities and obligations of the National Monuments Council to SAHRA.

3.7.3. An endorsement in the above regard must be along the following lines:

Endorsement in terms of section 58(2) of Act No. 25 of 1999:

The transferee has been abolished in terms of section 58(2) of Act No. 25 of 1999, and the *asset/right held hereunder, now vests in the South African Heritage Resources Agency, established in terms of section 11 of Act No. 25 of 1999.

Vide application filed with T.....

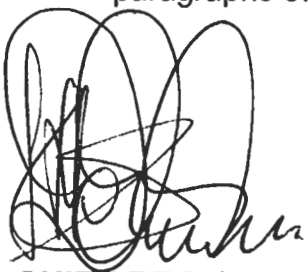
DATE

REGISTRAR OF DEEDS

* Omit whichever is inapplicable

4. REGISTRATION FEES

No registration fee is payable with regard to effecting the endorsement referred to in paragraphs 3.5.1, 3.5.2, 3.6 and 3.7



CHIEF REGISTRAR OF DEEDS

DATE: 7/05/07.

REFERENCE : A6/2/P and A.1/3/1/209
RINGBINDER : 68

CHIEF REGISTRAR OF DEEDS

REGISTRARS OF DEEDS

THE CHIEF: JUSTICE TRAINING

DIRECTOR: LAW SOCIETY OF SOUTH AFRICA : PRETORIA

MANAGER: BUTTERWORTHS PUBLICATIONS : DURBAN

CHAIRPERSON: PROPERTY LAW COMMITTEE : PRETORIA

REFERENCE : A6/2/P and A.1/3/1/209
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