

## **CHIEF REGISTRAR'S CIRCULAR NO. 9 OF 2008**

### **CERTIFICATES IN TERMS OF ITEM 28(1) OF SCHEDULE 6 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO. 108 OF 1996)**

#### **1. Application of this Circular and repeal of CRC 14 /2001 and CRC6/2008**

New provisions relating to the issuing of Item 28(1) of Schedule 6 of the Constitution of The Republic of South Africa, 1996 (Act No. 108 of 1996), has been issued. Chief Registrar's Circulars No. 14 of 2001 and No. 6 of 2008 are hereby withdrawn and substituted with this Circular.

#### **2. Issuing of Item 28(1) Certificates**

- 2.1. The Director General of the Department of Land Affairs (DG) has been accepted by the Minister for Agriculture and Land Affairs as a competent authority to sign certificates in terms of the provisions of Item 28(1), with effect from 10 September 2008.
- 2.2. Item 28 (1) certificates, issued (signed) by the DG, must be in the format of the copy which is attached hereto as Annexure A.
- 2.3. Examiners must note that Item 28(1) certificates already signed in accordance to the pro forma certificates agreed to during 1997 and 1999 (see Annexure B and C in Chief Registrar's Circular No. 10 of 1999), must be accepted and not rejected.
- 2.4. Item 28(1) certificates may only be issued by the DG and the Minister. The issuing of these certificates by any other person than the DG or the Minister is not acceptable and such certificates must accordingly be rejected.

#### **3. Vesting of immovable property in name of National / Provincial Government**

- 3.1. Item 28(1) certificates must reflect the name of the relevant government in which such immovable property is to be vested. Vesting clauses must read as follows:

"National Government of the Republic of South Africa"

or

"Provincial Government of..... (state relevant Province)"

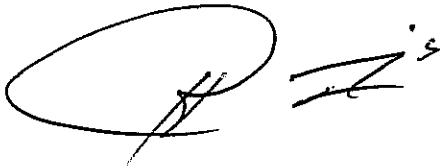
Which ever is applicable in the particular instance.

3.2. The vestings referred to in paragraph 3.1 above are the only vesting clauses to be accepted and any Item 28(1) certificate reflecting the vesting in "The Minister of..." may not be accepted and must accordingly be rejected.

**4. Land in trust for tribes or other identifiable communities of persons**

4.1. Distinction must be drawn between state land and land that is being held in trust for tribes or other identifiable communities of persons.

4.2. Where, for instance, the vesting clause in a title deed reflects "The Minister of Agriculture and Land Affairs/Land Affairs/Native Affairs as trustee of ....", the land therein described is trust land. When dealing with such land the relevant Minister acts in the capacity as trustee and therefore no Item 28(1) certificate should be called for.



**CHIEF REGISTRAR OF DEEDS**

**DATE: 12 NOVEMBER 2008**

REFERENCE: A 6/2/P  
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



DEPARTMENT: LAND AFFAIRS  
REPUBLIC OF SOUTH AFRICA

## ANNEXURE A

### CERTIFICATE IN TERMS OF ITEM 28(1) OF SCHEDULE 6 TO THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

I, Thozamile Thomas Gwanya, Director-General of the Department: Land Affairs, acting in the name and on behalf of the Republic of South Africa, a competent authority as contemplated by Item 28(1) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, do hereby certify that the following property / properties owned by the State, namely:

1. Erf .....  
MEASURING: .....  
HELD *vide* Title Deed No. ....
  
2. Erf .....  
MEASURING: .....  
HELD *vide* Title Deed No. ....

has / have vested in the National Government of the Republic of South Africa / Provincial Government of ..... in terms of Section 239 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993). In terms of Item 28(1) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, I request the Registrar of Deeds, ..... to endorse the vesting of the immovable property / properties in the name of the said Government, on the relevant title deed(s), register(s) or other document(s).

SIGNED AT ..... ON THIS ..... DAY OF ..... 20.....

**THOZAMILE THOMAS GWANYA**  
**DIRECTOR-GENERAL**  
**DEPARTMENT: LAND AFFAIRS**