

CHIEF REGISTRAR'S CIRCULAR NO. 10 OF 2010

DEEDS REGISTRIES ACT, 1937 (ACT NO. 47 OF 1937), AS AMENDED BY THE DEEDS REGISTRIES AMENDMENT ACT, 2010 (ACT NO. 12 OF 2010)

1. COMMENCEMENT OF THE ACT

The Deeds Registries Amendment Act, 2010 (Act No. 12 of 2010) ("the Amendment Act"), was published in Government Gazette No. 33829, and came into operation on 2 December 2010.

2. PURPOSE OF THE AMENDMENT ACT

The main purpose of the Amendment Act is to amend the Deeds Registries Act, 1937 (Act No. 47 of 1937) ("the Act"), in order to substitute certain obsolete expressions and to enhance the application of the Act in order to confirm to current and uniform practices of the deeds registries.

3. AMENDMENT OF THE ACT

The following is a brief explanation of the amendment of the Act. Only the amendments that relate to registration issues are discussed.

3.1. Heading to section 2 of the Act:

The heading to section 2 of the Act has been amended by section 1(a) of the Amendment Act, to read as follows:

"Appointment of chief registrar, registrar and assistant registrar of deeds"

3.2. Insertion of section 2 (1D):

Section 1(b) of the Amendment Act provides for the insertion of section 2 (1D), which section reads as follows:

"(1D) For the purposes of subsection (1)(a), "supervision" includes the issuing of practice and procedure directives."

It often happens that different practices and procedures are being followed in the different deeds registries with regard to registration issues. The reason for this is that a registrar of deeds acts autonomous and is not obliged to follow the practice and procedure directives that are issued by the chief registrar of deeds. The above-mentioned anomaly has led to the addition of section 2(1D) and section 3(1)(z) (see *paragraph 3.3 infra*), and its purpose is to enforce deeds registries to follow the practice and procedure directives (i.e. Chief Registrar's Circulars and Registrars' Conference Resolutions) that are issued by the chief registrar of deeds. This will promote uniformity in all the deeds registries throughout the country.

3.3. Insertion of section 3(1)(z):

Section 2(b) of the Amendment Act provides for the insertion of section 3(1)(z), to read as follows:

"(z) implement practice and procedure directives that are issued from time to time by the chief registrar of deeds."

See paragraph 3.2 *supra*.

3.4. Amendment of Section 17:

Section 4 of the Amendment Act provides for the amendment of section 17(2) by substituting the words preceding paragraph (a), to read as follows:

"(2) Every deed [executed or attested by a registrar, or attested by a notary public and required to be registered in a deeds registry, and made by or on behalf of or in favour of any person,] or any other document lodged with a deeds registry for execution, registration or record, shall"

Section 17(2) previously provided for the full names and marital status of a person to be reflected in a deed to be lodged for execution, registration, or record purposes in a deeds registry. Section 17(2) has now been amended in that the full names and marital status of a person must also be reflected in any document (applications, consents, power of attorneys, etc.), that need to be registered, recorded, or executed by a registrar of deeds.

3.5. Insertion of section 34 (1A):

Section 5 of the Amendment Act provides for the insertion of section 34(1A), to read as follows:

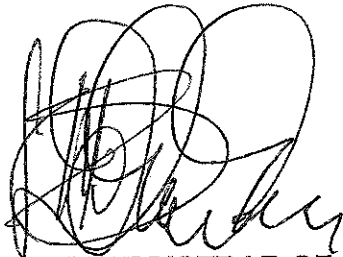
"(1A) The provisions of subsection (1) shall apply, with the necessary changes, to any person who is the owner of the whole of or a share in a piece

of land and who wishes to obtain a certificate of registered title of any fraction of his or her undivided share in such land."

Section 34 of the Act previously provided for a person who is the **joint owner** of a piece of land, to apply for a certificate of registered title for his or her undivided share in such land. This situation has now changed with the insertion of section 34(1A) that provides for the issuing, to **any person who is the owner of the whole of or a share in a piece of land**, of a certificate of registered title for any fraction of his or her undivided share in such land.

4. IMPLEMENTATION OF AMENDMENTS TO THE ACT

The amended provisions to the Act must be applied only to deeds lodged after the date of issue of this circular. However, the amended provisions may also be applied to deeds lodged prior to the date of this Circular, but on or after the date of the coming into operation of the Amendment Act.



CHIEF REGISTRAR OF DEEDS
DATE: 23 DECEMBER 2010

REFERENCE: A.6/2/P AND A.1/2/1/1/1
RINGBINDER: 54

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