

No. R. 292

16 April 2010

DEEDS REGISTRIES ACT, 1937 (ACT NO. 47 OF 1937): AMENDMENT OF REGULATIONS

In terms of section 9(9) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), I, Gugile Nkwinti, Minister of Rural Development and Land Reform, approve the regulations contained in the Schedule, made by the Deeds Registries Regulations Board under section 10 of the said Act. The regulations will come into operation one month from the date of publication hereof in the *Gazette*.



MR G NKWINTI

MINISTER OF RURAL DEVELOPMENT AND LAND REFORM

SCHEDULE

Definitions

1. In this Schedule "the Regulations" means the regulations promulgated by Government Notice No. R. 474 of 29 March 1963, as amended.

Substitution of regulation 16

2. The following regulation is hereby substituted for regulation 16 of the Regulations:

"16. Each Registrar shall keep a register of conveyancers and a register of persons other than conveyancers, who are authorised by any other law to prepare a deed or other document for registration or filing in a deeds registry."

Amendment of Regulation 18

3. Regulation 18 of the Regulations is hereby amended by the substitution in subregulation (1) for paragraph (a)(iii) of the following paragraph:

"(a)(iii) if the person's date of birth is incorrectly reflected in the identity number, by means of the full name, correct date of birth and identity number;"

Substitution of Regulation 29

4. The following regulation is hereby substituted for regulation 29 of the Regulations:

"29. If land is described in any deed or document, the extent thereof must be expressed in words and figures."

Amendment of Regulation 34

5. Regulation 34 of the Regulations is hereby amended by the substitution in subregulation (3) for subparagraph (d) of the following subparagraph:

"(d) Where a partner is deceased and the deed of partnership provides that the partnership shall not be terminated by reason of his or her death but that his or her share in such partnership shall be administered by a trustee, it shall be competent for a Registrar to endorse the title deed of any immovable property held by such partnership to the effect that the share of such deceased partner in such partnership shall be administered in terms of section 40 of Act 66 of 1965."

Amendment of Regulation 35

6. Regulation 35 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) Conditions should be inserted in deeds in the official language in which they were constituted, provided that where any conditions are embodied in a registered deed in another official language, such language may be perpetuated in subsequent deeds.”.

Deletion of Regulation 38

7. Regulation 38 of the Regulations is hereby deleted.

Amendment of Regulation 39

8. Regulation 39 of the Regulations is hereby amended by the deletion of subregulation (4).

Amendment of Regulation 47

9. Regulation 47 of the Regulations is hereby substituted for the following regulation:

“47. No cession of the balance due under any bond shall be registered until the amount paid in reduction thereof have been noted.”.

Deletion of Regulation 48

10. Regulation 48 of the Regulations is hereby deleted.

Amendment of Regulation 49

11. Regulation 49 of the Regulations is hereby amended by the substitution in subregulation (1) paragraph (g) for subparagraph (ii) of the following subparagraph:

“(ii) proof of the balance of the estate for distribution by means of a certificate by the Master or a copy of the liquidation account, when applicable.”.

Amendment of Regulation 50

12. Regulation 50 of the Regulations is hereby amended -

- (a) by the substitution for subregulation (1) of the following subregulation:

“(1) Where land is to be transferred in pursuance of the provisions of a will, codicil, or other testamentary document, an accepted and certified a true copy by the Master, of the will, codicil, or other testamentary document, as the case may be, shall be lodged with the deed. The Registrar may also in the exercise of his or her discretion require any executor who seeks to transfer land belonging to the estate under his or her administration, to lodge an accepted and certified a true copy as aforesaid, of the will, codicil, or other testamentary instrument, as well as a copy of the liquidation account in the estate. If, however, a copy is already lodged in the Deeds Registry, it will be sufficient if a note is made in either case on the deed indicating the number and the date of the deed with which such copy is filed.”; and

- (b) by the substitution in subregulation (2) for the words preceding paragraph (a) of the following words:

“Where land is sought to be transferred by an executor in pursuance of –”.

Amendment of Regulation 52

13. Regulation 52 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) Where, in the partition of land, an undivided share in such land is registered in the name of a deceased person, or of his or her estate, or of his or her surviving spouse, the Registrar shall, if such share has been bequeathed, require not only the consent of the Master in terms of section 53 of the Administration of Estates Act, 1913, on behalf of heirs or legatees who may be minors, but also the consent of the major heirs or legatees, if there are such, unless it can be proved to his or her satisfaction by documentary evidence that the partition was agreed upon during the lifetime of the testator.”.

Amendment of Regulation 61

14. Regulation 61 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) a Registrar may accept for registration a unilateral notarial deed of (a) cancellation of *fideicommissum* by the *fideicommissary* heirs, (b) cession of a personal servitude, and (c) cessions of trading rights, by the holder of such servitude or rights, provided that such deed does not impose any obligations upon the owner of the land in case of (a) or upon a cessionary in the case of (b) or (c).”.

Amendment of Regulation 65

15. Regulation 65 of the Regulations is hereby amended by the substitution for subregulation (10) of the following subregulation:

“(10) If an original power is filed of record in the office of a Registrar or Master of any Division of the High Court of South Africa, a Registrar of Deeds may recognize, as and for the purposes of an original, any copy certified under the hand and seal of such Registrar or Master, whether it is already lodged in the Deeds Registry or is hereafter lodged therein. Any copy of a power certified under the hand and seal of a Registrar of or Master of a High Court in any of the Provinces, or under the hand and seal of a Registrar of Deeds, which copy shall have been lodged in a Deeds Registry prior to the 1st January, 1919, shall also be recognized for such

purposes; provided that when it is sought by virtue of any copy of a power referred to in this subregulation to perform any act before a Registrar of Deeds there shall be produced to the Registrar concerned a letter or certificate, signed by the officer in charge of the office or Registry, as the case may be, from which such copy was issued, dated not more than twenty-one days prior to the date of production thereof, evidencing that no notification of revocation of the original power had been received up to the date of such letter or certificate.”.

Amendment of regulation 68

16. Regulation 68 of the Regulations is hereby amended by the insertion after subregulation (11) of the following subregulation:

“(11A) If the registered holder of a mortgage or notarial bond, or his or her duly authorised agent, desires to procure cancellation of such bond which has been lost or destroyed and of which the registration duplicate has also been lost or destroyed, and has made written application duly witnessed to the Registrar to cancel such bond, and has complied, with the necessary changes, with the provisions of subregulations (1), (2) and (3) of this regulation, the Registrar shall, if satisfied that no good reason to the contrary exists, endorse such application to indicate the cancellation of the bond, and the endorsed application shall be deemed to be a cancellation of the bond notwithstanding that the original or registration duplicate of the bond was not submitted for cancellation.”.

Deletion of Regulation 72

17. Regulation 72 of the Regulations is hereby deleted.

Amendment of Regulation 73

18. Regulation 73 of the Regulations is hereby amended –

(a) by the deletion of subregulation (1);

(b) by the substitution for subregulation (2) of the following subregulation :

“(2) A diagram shall be annexed to each copy of the relevant deed in respect of leases and subleases of land and cessions thereof and to notarial releases of any part of the property leased and also to deeds creating or defining servitudes and real rights whether created or defined by the parties thereto or by order of the Court or a Water Court: Provided that a servitude feature of uniform width, or a servitude feature at a specified distance from and parallel to a surveyed line shown on a registered diagram, in either instance extending along the entire length of such surveyed line other than a servitude for road widening purposes, may be registered by description without a supporting diagram: Provided further that any other servitude may, at the discretion of the Surveyor-General, be registered if he or she is satisfied that such servitude can be plotted on the diagram of the land affected: Provided further that a diagram need not be annexed to each copy of a deed creating or defining a servitude if such servitude is represented on a general plan filed in a Deeds Registry: Provided further that nothing in this subregulation shall exclude the registration of a servitude in general terms.”;

(c) by the insertion after subregulation (2) of the following subregulation :

“(2A) The Registrar shall, for the purposes of this regulation, not accept for registration any deed to which there is attached any sketch or plan other than a diagram.”; and

(d) by the deletion of subregulation (4).

Substitution of regulation 74

19. The following regulation is hereby substituted for regulation 74:

“74. If any lease or licence is tendered for registration under the provisions of the State Land Disposal Act, 1961, it shall be sufficient if there are annexed to the deeds so lodged, compilations plans of the land dealt with certified by the Surveyor-General.”.

Deletion of regulation 75

20. Regulation 75 of the Regulations is hereby deleted.

Substitution and deletion of Forms

21. The Regulations are hereby amended –

- (a) by the substitution for Forms D, W, PP, QQ, RR, EEE and FFF of the following forms:

FORM D

Prepared by me

.....

CONVEYANCER

.....

(State surname and
initials in block letters)

CERTIFICATE OF REGISTERED STATE TITLE

[Issued under the provisions of section 18 of the Deeds Registries Act, 1937 (No. 47 of 1937)]

Whereas the Minister of has applied under the provisions of section 18 of the Deeds Registries Act, 1937, for the issue to the *NATIONAL GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA / PROVINCIAL GOVERNMENT OF of a certificate of registered State title in respect of the undermentioned land, being a piece of unalienated State land which has been separately surveyed and is shown on the diagram annexed hereto;

Now, therefore, in pursuance of the provisions of the said Act, I the Registrar of Deeds at do hereby certify that the said *NATIONAL GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA / PROVINCIAL GOVERNMENT OF , its successor in title or assign is the registered owner of (describe the land, giving its name, registered number, designation of the registration division, name of administrative district in which it is situate, its extent and a reference to the annexed diagram).

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the Registrar of Deeds at on this day of Two Thousand and

Registrar of Deeds

*Omit which is not applicable.

FORM W

Prepared by me

.....

ATTORNEY/NOTARY/
CONVEYANCER

(Use whichever is applicable.)

.....

(State surname and initials in
block letters.)

CONSENT TO SUBSTITUTION

[Form of consent to substitution of debtor under section 57 (1) of the Act.]

Issued under the provisions of section 57 of the Deeds Registries Act, 1937 (No. 47 of 1937).

Whereas I am the legal holder of Mortgage Bond No. dated passed by for the sum of whereby was hypothecated as a mortgage certain (here describe the property);

And whereas the said has transferred the aforesaid land to who is ready and willing to take over the liability of the said under the said bond and to be substituted for the said transferor as the debtor under the bond;

Now, therefore, I agree under the provisions of the said Act, that the transferee aforesaid be substituted as debtor under the bond and that from the date of execution of the transfer the transferor shall be released from any obligation under the said bond.

Dated at this day of

.....
Signature of mortgagee

As witness:

.....
.....

And I, , the transferee aforesaid, having read the above consent of the legal holder of the bond, do hereby consent to accept transfer of the land subject to such bond and to be substituted for the transferor as debtor under the bond and hereby assume full liability for the indebtedness under the said bond in terms of the provisions of the said Act.

Dated at this day of

.....

Signature of transferee

As witness:

.....

.....

FORM PP

Prepared by me

.....

CONVEYANCER

.....

(State surname and
initials in block letters)

CERTIFICATE OF REGISTERED REAL RIGHTS : TOWNSHIP OR SETTLEMENT

[In respect of a township or settlement being laid out]

[Issued under the provisions of section 64 of the Deeds Registries Act, 1937 (No. 47 of 1937)]

Whereas has laid out a *township or settlement upon the land hereunder described in respect whereof he/she has reserved to him-/herself (here describe the nature of the rights reserved) and whereas a register has this day been opened for the said *township or settlement;

Now, therefore, pursuant to the provisions of the said Act, I, the at do hereby certify that the said, his/her heirs, executors, administrators, or assigns, is/are the registered holder(s) of (here describe the nature of the rights reserved) in and upon certain portion (describe it) now known as the *township or settlement of of the farm (describe the land giving name, number, registration division, administrative district and title deed) subject and entitled to the following conditions (here set forth the conditions from the title deed which are applicable).

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the at
on this day of Two Thousand and

Registrar of Deeds

*Omit which is not applicable.

FORM QQ

Prepared by me

.....

CONVEYANCER

.....

(State surname and
initials in block letters)

CERTIFICATE OF REGISTERED REAL RIGHTS : LAND TRANSFERRED

(In respect of land being transferred)

[Issued under the provisions of section 64 of the Deeds Registries Act, 1937 (No. 47 of 1937).]

Whereas has this day transferred under Deed of Transfer No.
..... the land hereunder described in respect whereof he/she has reserved to him-/herself (here described the rights reserved);

Now, therefore, pursuant to the provisions of the said Act, I, the
at do hereby certify that the said ,
his/her heirs, executors, administrators, or assigns, is/are the holder(s) of
(here describe the rights reserved) in and upon (describe the land, giving name, number, registration division and administrative district) subject

and entitled to the following conditions (here set out the conditions from the title deed which are applicable).

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the at
on this day of Two Thousand and

Registrar of Deeds

FORM RR

Prepared by me

.....

CONVEYANCER

.....

(State surname and
initials in block letters)

DEEDS OF CESSION OF NO.

[In terms of section 32 of the Deeds Registries Act, 1937 (No. 47 of 1937).]

Be it hereby made known:

That whereas the undermentioned servitude has been (state whether expropriated by or vested in and quote the authority in either event) over/in and upon the undermentioned land which (land, servitude) is at present registered in the name of under deed of transfer (or other title) No. dated

And whereas a certificate has been furnished to me in terms of section 32(4) of the Deeds Registries Act, 1937, by the cessionary to the effect that the provisions of any

law in connection with the *expropriation or vesting of such (mention servitude) have been complied with;

Now, therefore, by virtue of the authority conferred upon me by section 32 of the Deeds Registries Act, 1937, I, the at , do hereby cede to (description of cessionary), its successors in title or assigns :-

Description or nature of servitude (refer to any diagram annexed) over description of land extent (in words and figures);

In witness whereof I, the said Registrar, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the at on this day of Two Thousand and

Registrar of Deeds

*Omit which is not applicable.

FORM EEE

Prepared by me

.....

CONVEYANCER

.....

(State surname and initials in block letters)

CERTIFICATE OF REGISTERED REAL RIGHTS

[In respect of the remainder of a township or settlement]

[Issued under the provisions of section 64 of the Deeds Registries Act, 1937 (No. 47 of 1937).]

Whereas has applied for the issue to him/her of a Certificate of Registered Real Rights under section 64 of the Deeds Registries Act, 1937, and whereas he/she is the owner of the *township or settlement known as laid out in (describe the property and quote title) and whereas there have been transferred certain * erven, lots or holdings in the aforesaid *township or settlement and whereas (describe the nature of the rights) were reserved upon the layout of the said *township or settlement and whereas the applicant is desirous of obtaining a certificate in respect of such rights in the remainder of such *township or settlement which remainder, in accordance with a Certificate of Remainder issued by the Surveyor-General, is hereunder described;

Now, therefore, pursuant to the provisions of the said Act, I, the at do hereby certify that the said, his/her heirs, executors, administrators, or assigns is/are the holder(s) of (describe the nature of the rights) in and upon the remainder of the *township or settlement known as laid out on (describe the property) held by him/her under the Deed of (describe the title) dated which remainder is in extent as will more fully appear from a Certificate of Remainder issued by the Surveyor-General on the day of subject and entitled to the following conditions (here set forth the conditions, which must be in conformity with the conditions applicable, appearing in the titles of erven or holdings already transferred).

In witness whereof I, the said Registrar, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

Thus done and executed at the Office of the at on this day of Two Thousand and

Registrar of Deeds

NB-The Registrar at Johannesburg cannot execute in respect of Land other than a township.

*Omit which is not applicable.

FORM FFF

Prepared by me

.....

CONVEYANCER

.....

(State surname and
initials in block letters)

CERTIFICATE OF REGISTERED REAL RIGHTS

[In respect of rights reserved before the commencement of the Deeds Registries Act, 1937 (No. 47 of 1937) in land on which a township or settlement has been established.]

[Issued under the provisions of section 64 of the Deeds Registries Act, 1937 (No. 47 of 1937).]

Whereas has applied for the issue to him/her of a Certificate of Registered Real Rights under section 64 of the Deeds Registries Act, 1937, and whereas he/she is the holder of or entitled to (describe the nature of the rights) in and upon certain (describe the land over which the reservation was originally made) forming the, or part of the *township or settlement of;

And whereas there have been transferred certain *erven, lots or holdings in the aforesaid *township or settlement and whereas the applicant is desirous of obtaining a certificate in respect of such *erven, lots or holdings;

And whereas the said rights are at present held in respect of the said *erven, lots or holdings as follows (here describe the properties concerned and quote the titles thereto);

Now, therefore, pursuant to the provisions of the said Act, I, the at do hereby certify that the said, his/her heirs, executors, administrators, or assigns, is/are the holder(s) of (here describe the rights reserved) in and upon (describe each erf, lot or holding, its situation, and extent, in separate paragraphs) subject and entitled to the following conditions (here set out the conditions from the title deed which are applicable).

In witness whereof I, the said Registrar, have subscribed to these presents, and have caused the seal of Registry to be affixed thereto.

Thus done and executed at the Registry of the at on this day of Two Thousand and

Registrar of Deeds

*Omit which is not applicable.

- (b) by the deletion of Forms AA, BB, CC, DD, EE, FF, GG, HH, II, JJ, NN, OO; and OO(1).

22. These regulations shall be known as the Deeds Registries Amendment Regulations, 2010.