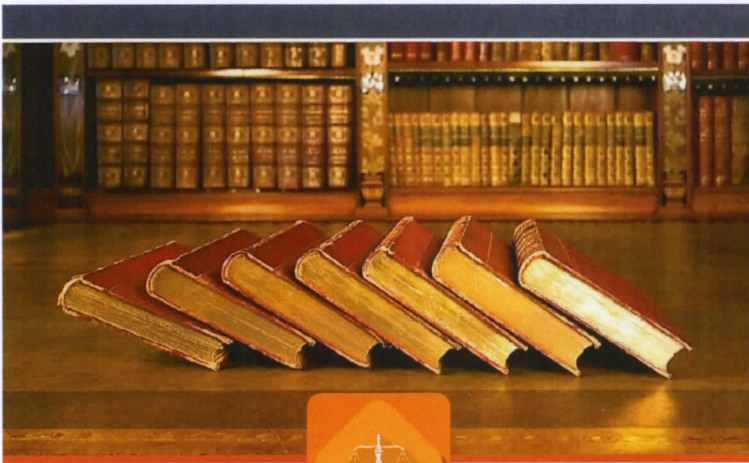


COMPLETE COMPILATION
AND INDEX TO
**REGISTRARS CONFERENCE
RESOLUTIONS**

The Conference resolutions are an essential source of information to any person involved in conveyancing and notarial practice and procedure, and should be utilized when drafting deeds and documents.



COMPLETE COMPILATION
AND INDEX TO
**REGISTRARS
CONFERENCE
RESOLUTIONS**

2014 EDITION
THERON PUBLISHERS

Since 1940 Registrars of Deeds have, under the chairmanship of the Chief Registrar of Deeds, had regular meetings to discuss contentious issues pertaining to deeds office practice and procedure.

In terms of section 3(1)(z) of the Deeds Registries Act 47 of 1937 it has become the duty of all Registrars to apply these resolutions uniformly.

It goes without saying that to apply more than 6000 resolutions without an index will be an almost impossible task.

This compilation provides the practitioner with a complete set of resolutions grouped together with a comprehensive index consisting not only of the relevant Acts and regulations, but also a reference index to issues which have been resolved.

Should a practitioner, for example, encounter a problem with a usufruct he/she must refer to usufruct in the index and all the appeals surrounding usufruct have been set out there under. Furthermore there is an index of all the sections and regulations to the Deeds Registries Act 47 of 1937 and the Sectional Titles Act 95 of 1986.

Without this index the resolutions taken will be of little or no use to the practitioner, or anybody involved in drafting deeds and documents for registration.

2012

REGISTRARS' CONFERENCE RESOLUTIONS OF 2012

A. WITHDRAWAL OF PREVIOUS REGISTRARS' CONFERENCE RESOLUTIONS

Item 1 of 2012

The following Registrars' Conference Resolutions are withdrawn:

- RCR 21 of 1961: (see RCR 27 of 2012);
- RCR 15 of 2002: (see amendment to regulation 68(11A) of the Deeds Registries Act, 47 of 1937);
- RCR 45 of 2003: (see RCR 63 of 2011, as well as RCR 3 of 2012);
- RCR 42 of 2005: (see RCR 5 of 2011);
- RCR 4 of 2009: (see amendment to regulation 68(11)(A) of the Deeds Registries Act, 47 of 1937);
- RCR 77 of 2010: (see regulation 25A of the Sectional Titles Act, 95 of 1986);
- RCR 79 of 2010: (see amendment to Form AK);
- RCR 13 of 2011: (see RCR 10 of 2012).

B. PREVIOUS REGISTRARS' CONFERENCE RESOLUTIONS

Item 2 of 2012

RCR 36 of 2002: Cancellation of an exclusive use area

Where the same exclusive use area was erroneously transferred to two owners of sections in a scheme, why does RCR 36 of 2002 state that both exclusive use areas must be cancelled and the body corporate re reserve the right *de novo*? Shouldn't only the faulty owned exclusive use area be cancelled?

RESOLUTION

No. The Sectional Titles Act, 95 of 1986 does not provide for the cancellation of an erroneously registered right of exclusive use area.

(RCR 36 of 2002 is confirmed)

Note: Withdrawn *vide* RCR 13 of 2013.

Item 3 of 2012

RCR 45 of 2003 and RCR 63 of 2011: Transfer of whole of common property

RCR 45 of 2003 is affected by RCR 63 of 2011 in respect of the transfer of the whole of the common property. RCR 45 of 2003 should be amended to indicate that section 57 of the Deeds Registries Act, 47 of 1937 cannot be applied for the transfer of the whole of the common property.

RESOLUTION

The bonds must be cancelled. Where the whole of the common property is transferred (or a part thereof including more than one section, subject to different bonds, is transferred) section 57 of the Deeds Registries Act, 47 of 1937 cannot be applied.

(RCR 45 of 2003 is withdrawn)

Item 4 of 2012

RCR 55 of 2006: Description of developer

According to RCR 55 of 2006 the developer must be a party to the notarial deed for purposes of registering an encroachment. How must the developer be described?

RESOLUTION

The developer must be described in the following manner:

"Name of Developer developer of the Scheme (name of scheme) No SS"

Item 5 of 2012

RCR 60 of 2008 and RCR 13 of 2011: Noting of lapsing of a section 25 right

Why must the lapsing of a section 25 right be noted in terms of section 68 of the Deeds Registries Act, 47 of 1937, while section 15B(1)(d) of the Sectional Titles Act, 95 of 1986 provides for the cancellation of the registration of a real right which has lapsed for any reason, on production of proof that the real right has lapsed?

RESOLUTION

RCR 60 of 2008 and RCR 13 of 2011 must be amended to refer to section 15B(1)(d) of the Sectional Titles Act, 95 of 1986. However the provisions of section 68(1) of the Deeds Registries Act, 47 of 1937 apply with the necessary changes.

- **RCR 60 of 2008 is amended to read as follows:**

“RCR 60/2008: - Section 25 of the Sectional Titles Act, 95 of 1986: Subdivision of real right of extension

A real right of extension is subdivided into numerous portions. What procedure must be followed for purposes of the endorsement of the lapsing of the right on the section 11(3)(b) schedule of conditions?

Resolution:

The 11(3)(b) schedule must only be endorsed, in terms of section 15B(1)(d) of Act No. 95 of 1986, when the whole of the right has lapsed. The provisions of section 68(1) of Act No. 47 of 1937 must be applied with the necessary changes.”

- **RCR 13 of 2011 is amended to read as follows:**

“RCR 13 of 2011: - RCR 8 of 2009 and RCR 31 of 2010: Right of Extension and section 15B(3) Certificates

RCR 8 of 2009 and RCR 31 of 2010 are in contradiction to CRC 6 of 1988 (paragraph 14.5). If a section 25 right has expired must an application be lodged to note the lapsing of the right before the developer applies for a right to extend in terms of section 25(6A)?

Resolution:

Yes, section 15B (1)(d) of Act no. 95 of 1986 must be invoked to note the lapsing prior to the developer applying for a right to extend in terms of section 25(6A) of Act No. 95 of 1986. The provisions of section 68(1) of Act No. 47 of 1937 must be applied with the necessary changes.”

Item 6 of 2012

RCR 54 of 2010: Property sold in execution

RCR 54 of 2010 should be revisited given the case of *Edkins v Registrar of Deeds* (Case No. 16117/2011).

RESOLUTION

RCR 54 of 2010 stands, pending the outcome of the appeal of the *Edkins* case.

Note: Withdrawn *vide* RCR 14 of 2013

Item 7 of 2012

RCR 83 of 2010, as amended by RCR 19 of 2011: Opening of sectional title register by executor

In terms of RCR 83 of 2010 (as amended by RCR 19 of 2011) the executor may apply for the opening of a sectional title register "*where the deceased had sold units in the scheme*". The word "*sold*" should be substituted with "*dealt with*" as the deceased, during his/her lifetime, might have donated, exchanged or afforded a real right over a unit.

RESOLUTION

RCR 83 of 2010 is amended to read as follows:

"RCR 83/2010: May the executor apply for the opening of a sectional title register?"

May an executor, administering the estate of a deceased "developer", apply for the opening of a sectional title register?

Resolution:

Yes, where the deceased had sold, donated, exchanged, alienated, bequeathed, or encumbered units in the scheme, or where it has become necessary for the executor in the exercise of his/her duties in the winding up of the estate, the executor may continue with the application for the opening of the scheme."

Note: Withdrawn vide RCR 4 of 2013

Item 8 of 2012

RCR 89 of 2010 (as amended by RCR 20 of 2011): Cancellation of servitude to which the common property is entitled to and section 75(2)bis of Act No. 47 of 1937

RCR 89 of 2010 (as amended by RCR 20 of 2011) states that the consents need not be lodged, but filed in the notaries' protocol. Only the bonds existing at date of the execution of the notarial deed of cancellation of the servitude must be lodged.

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