



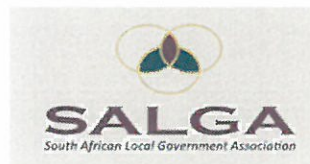
cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA



**rural development
& land reform**

Department:
Rural Development & Land Reform
REPUBLIC OF SOUTH AFRICA



**COGTA CIRCULAR NO. 17/2014
SALGA CIRCULAR NO. 08/14
CHIEF REGISTRAR'S CIRCULAR NO. 5 OF 2014**

**FROM : DIRECTOR-GENERAL
DEPARTMENT OF COOPERATIVE GOVERNANCE**

**CHIEF REGISTRAR OF DEEDS
DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

**CHIEF EXECUTIVE OFFICER
SALGA**

TO ALL : MUNICIPAL MANAGERS

REGISTRARS OF DEEDS

CONVEYANCERS

DATE: 26 MARCH 2014.

**CLEARANCE CERTIFICATES IN TERMS OF THE PROVISIONS OF THE
LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF
2000)**

1. PURPOSE OF THE CIRCULAR

The purpose of this circular is to provide clarity to municipalities, deeds registries and conveyancers and to ensure a common interpretation and application of the regulation dealing with the certificate issued in terms of section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

2. BACKGROUND

- 2.1. Section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) states the following:

"118. Restraint on transfer of property

(1) A registrar of deeds may not register the transfer of property except on production to that registrar of deeds of a prescribed certificate-

- (a) issued by the municipality or municipalities in which that property is situated; and
- (b) which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

(1A) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 60 days from the date it has been issued."

- 2.2. In May 2003, the Minister for Provincial and Local Government (as the Department was then known) made a regulation to prescribe the format of the certificate required for the transfer of property. The prescribed certificate reads as follows:

CERTIFICATE IN TERMS OF SECTION 118 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (Act 32 of 2000)

(AS PRESCRIBED IN TERMS OF SECTION 120 OF ACT 32 OF 2000)

ISSUED BY

XYZ MUNICIPALITY

In terms of section 118 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), it is hereby certified that all amounts that became due to XYZ Municipality in connection with the under mentioned property situated within that municipality for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for this certificate, have been fully paid.

DESCRIPTION OF PROPERTY

Erven :

Portion :

Extension :

Zoning :

Suburb :

Town :

Registered owner

This Certificate is valid until

Given under my hand at, on

MUNICIPAL MANAGER

XYZ MUNICIPALITY

- 2.3. Act No. 32 of 2000 does not provide for the issuing of electronically issued clearance certificates and this resulted in the issuing of Chief Registrar's Circular 1 of 2014, by the Office of the Chief Registrar of Deeds on 7 January 2014, stating that all clearance certificates must comply with the form as prescribed by Act No. 32 of 2000, and that no electronically issued certificates will be accepted for purposes of registration after 3 March 2014.
- 2.4. During a meeting held between the Departments of Cooperative Governance and Rural Development and Land Reform, SALGA and the Law Society of South Africa on 5 February 2014, the following challenges were raised with regards to the prescribed certificate:
- (i) The certificate does not make provision for the capturing of sectional title units / exclusive use areas / cession of real rights and the unique description thereof;
 - (ii) The certificate does not make provision for advanced electronic signatures as contemplated in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002); and
 - (iii) The certificate does not make provision for electronically issued clearance certificates.

3. ACTIONS TO ADDRESS THE CHALLENGES

- 3.1. The Departments of Cooperative Governance and Rural Development and Land Reform and SALGA have agreed that the Department of Cooperative Governance will initiate the legislative process to amend the regulation dealing with the certificate in terms of section 118 of Act No. 32 of 2000. The regulation must be amended to allow for the capturing of sectional title units / exclusive use areas / cession of real rights, the electronic signature of certificates, and the electronically issuing of the certificates. The legislative process takes time and will not provide a solution in the current situation. However, Municipalities will, pending the amendment of the regulation, be required to ensure that as from 1 July 2014 all electronically issued certificates contain an advanced electronic signature, as contemplated in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).
- 3.2. In the interim, the Departments of Cooperative Governance and Rural Development and Land Reform and SALGA have agreed that the Registrar of Deeds may accept electronically issued clearance certificates if such certificates embody the following certificate by the conveyancer:

"I (full name and surname) hereby certify that this is a print-out of a data message in respect of the original clearance certificate electronically issued by themunicipality (insert name of municipality)."

.....
Conveyancer

.....
Date: ".

ANNEXURE "A"

**CERTIFICATE IN TERMS OF SECTION 118 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT No. 32 OF 2000)
(AS PRESCRIBED IN TERMS OF SECTION 120 OF ACT No. 32 OF 2000)**

ISSUED BY XYZ MUNICIPALITY

In terms of section 118 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), it is hereby certified that all amounts that became due to XYZ Municipality in connection with the undermentioned property situated within that municipality for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for this certificate, have been fully paid.

DESCRIPTION OF PROPERTY (see definition of property in section 1 of Act 32 of 200)

21 Digit Code (or Municipal Reference Number):

Erven:

Portion:

Extension:

Zoning :

Registration division / Administrative District:

Suburb :

Town :

Sectional Title unit number:

Exclusive use area and number as referred to on the registered plan:

Real right:

Scheme registration number:

Sectional Title Scheme Name:

Registered owner :

Name and Identity/ Registration number of all purchaser/s::

This Certificate is valid until:

Given under my hand at, on

**MUNICIPAL MANAGER
XYZ Municipality**

Date Issued:

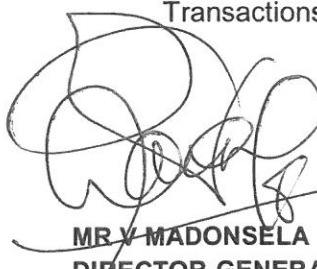
Authorised Official:

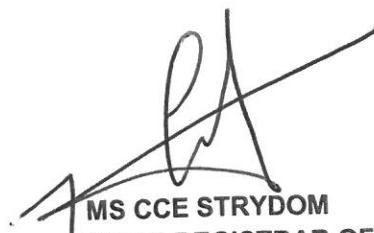
- *Deeds must not be rejected only because the electronically issued clearance certificate does not contain the above conveyancer's certificate. A note must be made to the effect that the clearance certificate must be embodied with the above-mentioned conveyancer's certificate.*
- *If the electronically issued clearance certificate contains a conveyancer's certificate to the effect that it is a true copy of a clearance certificate that had been drawn from a website, a note must be raised for such conveyancer's certificate to be deleted and to be replaced with the above-mentioned certificate.*

- 3.3 The meeting also agreed to include the description of sectional title units / exclusive use areas / cession of real rights in the certificate. A copy of the amended certificate is attached as Annexure "A". It must be noted that although Act No. 32 of 2000 does not allow for a deviation from the certificate, unless the regulation is amended, this interim measure will ensure that the property market continues to function as it currently does and that the transfer of sectional title units / exclusive use areas / real rights is not delayed until the amendment of the regulation.
- 3.4 The Office of the Chief Registrar of Deeds has withdrawn Chief Registrar's Circular 1 of 2014. The procedure contained in this Circular must now be followed until Act No. 32 of 2000 has been amended to cater in this regard, or until otherwise informed by the Chief Registrar of Deeds or the Department of Cooperative Governance.

4. DATES RELATING TO AGREED PROCEDURES

- 4.1. All electronically issued clearance certificates, **issued on or after 31 March 2014**, must embody the certificate by the conveyancer as referred to in par. 3.2 *supra*.
- 4.2. All manual and electronically issued clearance certificates **issued on or after 1 May 2014**, must conform to the format ³an contained in Annexure A,
- 4.3. All clearance certificates **electronically issued on or after 1 July 2014** must contain an advanced electronic signature, as contemplated in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002).


25/08/2014
MR V MADONSELA
DIRECTOR-GENERAL:
DEPARTMENT OF
COOPERATIVE
GOVERNANCE


MS CCE STRYDOM
CHIEF REGISTRAR OF
DEEDS


MR X GEORGE
CHIEF EXECUTIVE
OFFICER: SALGA