



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGISTRAR OF DEEDS
Private Bag X9028, Pietermaritzburg, 3200; Tel: 033 355 6800; Fax: 033 345 5101

REGISTRAR'S CIRCULAR NO 2 OF 2016

LAPSING OF PRE-EMPTIVE RIGHTS IN FAVOUR OF DEPARTMENT OF HUMAN SETTLEMENT

1. PURPOSE

The purpose of this Circular is to set out the registration requirements on the lapsing of certain pre-emptive right conditions in favour of the Department of Human Settlement " the successors to the Department of Housing".

2. BACKGROUND

The condition/s in question could have been imposed in terms of the following two Provisions, Section 18A of the Kwazulu-Natal Housing Act, Act 12 of 1998 (Provincial Act) or Section 10A of the Housing Act, Act 107 of 1997 (National Act).

3. REGISTRATION REQUIREMENTS

On lapsing of these conditions a Section 68(1) of Act 47 of 1937 application must be lodged, to have the conditions removed from the title/s that they are reflected in. The Section 68(1) application can be made by or on behalf of the owner of the land.

The question of when such condition lapse has been the cause of various discussions and debates and in the absence of clarity the following practice must be followed.

- (a) If the eight year period have lapsed since the date of registration of the transaction, no proof will be required and section 68(1) application may be registered without further proof being required, however;
- (b) if the eight year period have **not yet lapsed** since date of registration of the transaction but eight years have passed since date of transaction, consent from the Department of Human Settlement will be required confirming that the condition have lapsed, before a section 68(1) application may be registered.


REGISTRAR OF DEEDS
PIETERMARITZBURG
DATE: 03 February 2016