



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

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RC 01 /2019

CONSULTATION

1. PURPOSE:

- To provide guidance to managers, examiners and conveyancers on the consultation process.
- This circular serves to highlight aspects already contained in various circulars and to address areas where uncertainty exists.

2. BACKGROUND:

- It has become clear that certain misconceptions exist about what is accepted and what is not accepted during consultation.
- It has furthermore become clear that circulars are not being applied consistently by all.

3. PROCESSES TO BE FOLLOWED:

3.1 Putting Forward

General Rule:

Deeds must be in the system for 5 days, counting from day of lodgement, and can be put forward for execution on the 6th day. At month end any deed(s) scanned into Prep can be put forward for execution without an application form. **NOTE:** The only deeds that may be collected from examiner's offices at month end are deeds of which the rates clearance or any consent is lapsing. No other deeds may be put forward from the examiners.

See RC7/2017

Exception to the Rule:

If a deviation from this rule is requested there must be a compelling reason, motivated in writing. An example of a compelling reason is terminal illness supported by a doctor's letter, lapsing of a rates clearance certificate or document of consent.

3.2 Corrective Maintenance

Only two reasons exist for corrective maintenance, namely office error and wrong/harsh note raised by an examiner. Examiners are not allowed to remove correctly raised rejection notes in order to allow the conveyancer to apply for corrective maintenance. Any examiner who manipulates the system in such a way will be guilty of misconduct. Only the examiner/monitor who examined the batch of deeds can pass the deeds and consent to corrective maintenance. Please take note of RC 7/2013 stating that a monitor *may* pass the deeds and consent to corrective maintenance but a senior examiner *must* do it. The person who removed the note and signed for it, takes the responsibility for that specific note. Conveyancers applying for corrective maintenance must also present a DOTS printout together with the application form.

CRC 5/2010

RC 7/2013

3.3 Roman Linking

Deeds forming part of a Roman linked batch and that are found to be not registerable may only be delinked from the batch at level 2 examination by the senior examiner.

RC 7/2018

3.4 Expedition

Expedition of deeds is only granted for land reform and RDP deeds. No other deeds can be expedited. No exceptions can be made.

CRC 5/2010

3.5 Prep Clerks

No articulated or prep clerks have access to officials with the rank of Chief Deeds Controller or higher in order to discuss notes raised on deeds. No articulated or prep clerks are allowed on the 4th floor. The practice of some freelance conveyancers to accompany prep clerks in order for the prep clerk to discuss deeds that the conveyancer has little or no knowledge about must cease immediately.

RC 2/2013

RC 14/2002

3.6 Execution room

- All deeds must be handed in for execution before 11h00. Managers execute deeds until they are finished.
- Extension of execution time will be granted if there are any system problems, power failure or if the office caused a delay in any way.
- Individual requests for late execution will not be considered unless it the delay was caused by the office.
- On month end the rule is relaxed and the time period for execution is extended as needed.
- It is the responsibility of the conveyancer to ensure that the transaction was registered successfully and to remain in the execution room until the registration process is finalised.
- No consultation with managers is allowed during execution.
- Only a practising conveyancer may present deeds for execution, not a prep/articled clerk.

RC 1/2014
RCR 25/2009

3.7 Inserting documents after lodgement

CRC 5/2010 states: No deed or document shall be permitted to enter the deeds registration system process other than by way of lodgement. Any transgression of the principles laid down in this circular will be treated as misconduct...

No documents of any nature may be inserted in a deed in the system. The batch must be withdrawn and relodged. Conveyancers and their staff may not approach examiners to request them to accept documents to be inserted in deeds and no examiner may accept such a document. As this is an instruction from Chief Registrar of Deeds, no senior manager can give permission to an examiner to accept a document on examination.

CRC 5/2010

3.8 Rates Clearances

Clients often enquire about the date of validity of clearance certificates. It has always been practice in this office to use "...given under my hand..." as the date of issue. Should a rates clearance be extended, it must be clearly indicated on the certificate and a stamp must be affixed by the Municipality.

3.9 Printouts from other Institutions

No printouts from institutions other than the Deeds Office are acceptable in order to prove any information in our records. Acceptable printouts are our internal printouts as well as printouts obtained from DeedsWeb. No printouts from private companies, e.g Windeed, Searchworks, LexisNexis etc can be used or accepted by any staff member in this office to prove our own information. The reason for this is that these privately owned companies obtain their information from various sources of which the Deeds Office is one, and then consolidate and adjust information. There is no guarantee that the information is indeed correct or that amendments to our records reach these companies.

RC 4/2016

3.10 ANCs

From date of signing an ANC a conveyancer has three months to register it. There is no reasonable explanation why an ANC is lodged mere days before expiry and then it must be hurried through the system and put forward in order to register it in time.

CRC 5/2010 states: All other deeds (except land reform and RDP) must follow the normal processes and time frames that are prescribed.

3.11 Incorrect Deeds Office Records

If an examiner, while examining his/her deeds, discovers an error on our database, i.e incorrect information on a printout, it is the duty of the examiner to investigate the mistake and to correct it.

RC 4/2016

3.12 Inconsistent applying of circulars, conference resolutions

All staff is required to apply circulars and conference resolutions consistently and equally to all deeds.

All clients are required to adhere to circulars and conference resolutions.

3.13 Rulings

Rulings may only be requested where grey areas exist, not provided for in legislation, conference resolutions or circulars. A ruling is not permission to bend the law, nor should a ruling be requested for something that could have been resolved through consultation. The letter, requesting a ruling, must clearly specify which sources was researched by the conveyancer before he requested a ruling.

RC 13/2015

3.14 Consultation time

Consultation on 4th floor takes place between 8h30 and 11h00 daily. Conveyancers can arrange consultation with the Registrar of Deeds by making an appointment.

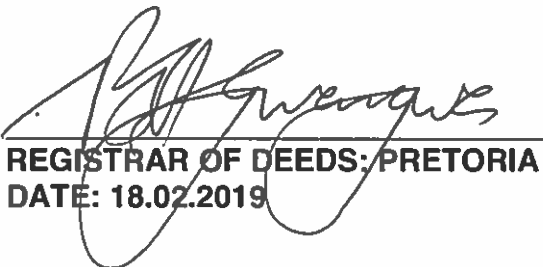
3.15 References to Authority

When the nature of authority in a document is a resolution, the *date of the resolution* must also be disclosed.

- The 2018 Conference resolution state that the status quo remains.
- In order to determine what the status quo is, you are referred to the Deeds Practice Manual, page 1-115.
- The Deeds Practice Manual is our comprehensive SOP, or standard operating procedures. If any examiner did not require the date of a resolution to be inserted in the past, it was contrary to our manual and therefore wrong.

4. EFFECTIVE DATE:

This circular will be effective immediately.


REGISTRAR OF DEEDS: PRETORIA
DATE: 18.02.2019

