



agriculture, land reform & rural development

Department:
Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

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REGISTRARS' CONFERENCE RESOLUTIONS 2020

A. WITHDRAWAL OF REGISTRARS' CONFERENCE RESOLUTIONS

1/2020 The following Registrars' Conference Resolutions are withdrawn:

- RCR54/1967 (see section 89 of Act 47 of 1937);
- RCR22/1987 (see RCR2/2020);
- RCR2.14/1999 (see RCR2/2020);
- RCR21/2004 (see RCR2/2020);
- RCR35/2005 (see RCR3/2020 and CRC 1/2020);
- RCR2/2006 (see RCR3/2020 and CRC 1/2020);
- RCR12/2008 (see RCR3/2020 and CRC 1/2020);
- RCR6/2009 (see RCR3/2020 and CRC 1/2020);
- RCR4/2011 (see RCR3/2020 and CRC 1/2020);
- RCR3/2015 (RCR7/2007 and RCR6.12 of 1999 withdrawn by RCR3/2015 remain withdrawn);
- RCR29/2006 (see RCR4/2020);
- RCR16/2007 (see RCR6/2020).

B. PREVIOUS REGISTRARS' CONFERENCE RESOLUTIONS

2/2020 Lodgement of Divorce Orders and Settlement Agreements

Should a divorce court order or a settlement agreement, if any, be insisted upon where an owner who was formerly married out or in community of property, including marriages governed by the laws of another country, now deals with the land and is described as divorced or unmarried?

Resolution:

Yes, a divorce court order or settlement agreement, if any, must be lodged for marriages in or out of community of property, including marriages governed by the laws of another country, to determine whether the rights of third parties are affected.

- RCR 22/1987; RCR 2.14/1999 and RCR 21/2004 are withdrawn.

3/2020 Interpretation of the concept “alienate”

The Office of the Chief State Law Advisers, in an opinion dated 3 April 2020, expressed the view that ‘*alienation*’ of land does not include ‘*mortgage*’ of land and a title deed condition that relates to the restriction on alienation of land does not include a restriction to mortgage such land.

Resolution:

Restriction against alienation does not include mortgage of land and a title deed condition that relates to the restriction on alienation of land does not include a restriction to mortgage such land.

- RCR’s 35/2005, 2/2006; 12/2008; 6/2009; and 4/2011 are withdrawn.

4/2020 Retyping of page in Power of Attorney or Affidavit

Where any page in a power of attorney or affidavit is to be retyped, must the power of attorney be re-executed or the affidavit redone, or will mere full initialling suffice?

Resolution:

The power of attorney must be re-executed, and a new affidavit must be provided.

- RCR 29/2006 is hereby withdrawn

5/2020 Vesting of property in name of Partnership trading under name of a Joint Venture

In terms of RCR 29 of 2007, immovable properties cannot be transferred in the name of a joint venture as the latter is not a legal entity. Are descriptions of the following acceptable?

1. *Sabie Property Group Proprietary Limited*
(Registration No.)
 2. *Kuilsrivier Landgoed Proprietary Limited*
(Registration No.)
- Trading in partnership under the name of HIBERRY ESTATE JOINT VENTURE*

Resolution:

Such a description is allowed. See section 24*bis* and regulation 34 of Act 47 of 1937.

C. DEEDS REGISTRIES ACT, 1937 (ACT 47 OF 1937)

6/2020 Noting of lapsing of usufruct simultaneous with a sheriff transfer

A Sheriff is appointed to transfer an attached property which is subject to a usufruct. The lapsing of the usufruct must be noted in terms of section 68 (1) of Act 47 of 1937. Who must bring the application for the lapsing if the sheriff refuses to bring such application on behalf of the registered owner?

Resolution:

An application made in terms of section 68(1) of Act 47 of 1937 by the conveyancer, by or on behalf of the owner of the land, together with proof that the usufruct has lapsed, must be lodged.

- RCR 16/2007 is hereby withdrawn.

D. REGULATIONS TO THE DEEDS REGISTRIES ACT 47 OF 1937

7/2020 Who should consent on behalf of a deceased usufruct when application is to be made for a "VA" copy?

A title is lost which includes a condition reserving a usufruct in favor of a 3rd party. Regulation 68 (2) of Act 47 of 1937 requires an interested party to also consent to the issuing of a "VA" copy. If the usufructuary is deceased, should we still insist on a consent? And if yes, who should be giving such consent?

Resolution:

No, a consent is not required if the usufructuary is deceased. The registered owner must confirm that the title deed was not in the custody of the usufructuary. Proof in the form of a death certificate of the usufructuary must be lodged.