

(10 December 2024 – to date)

[This is the current version and applies as from **10 December 2024**, i.e. the date of commencement of the Deeds Registries Amendment Act 20 of 2024 – **to date**]

DEEDS REGISTRIES ACT 47 OF 1937

(Government Notice 800 in Government Gazette 2443, dated 26 May 1937. Commencement date:
1 September 1937 [Proc. No. 136, Gazette No. 2457, dated 30 July 1937])

To be amended by:

Electronic Deeds Registration Systems Amendment Bill, 2024

as amended by:

*Deeds Registries Amendment Act 15 of 1953 - Government Notice 1757 in Government Gazette 5120, dated 14 August 1953. Commencement date: **14 August 1953**.*

*Matrimonial Affairs Act 37 of 1953 - Government Notice 2333 in Government Gazette 5170, dated 28 October 1953. Commencement date: **28 October 1953**.*

*General Law Amendment Act 50 of 1956 - Government Notice 1109 in Government Gazette 5703, dated 22 June 1956. Commencement date: **22 June 1956**.*

*Deeds Registries Amendment Act 43 of 1957 - Government Notice 886 in Government Gazette 5887, dated 14 June 1957. Commencement date: **19 July 1957** [Proc. 205, Gazette No. 5912, dated 19 July 1957].*

*Deeds Registries Amendment Act 43 of 1962 - Government Notice 701 in Government Gazette 236, dated 4 May 1962. Commencement date: **4 May 1962**.*

*General Law Amendment Act 80 of 1964 - Government Notice 914 in Government Gazette 829, dated 24 June 1964. Commencement date: **24 June 1964, unless otherwise indicated**.*

*Deeds Registries Amendment Act 87 of 1965 - Government Notice 958 in Government Gazette 1163, dated 30 June 1965. Commencement date: **6 August 1965** [Proc. 174, Gazette No. 1197, dated 6 August 1965].*

*Mining Titles Registration Act 16 of 1967 - Government Notice 269 in Government Gazette 1670, dated 1 March 1967. Commencement date: On the date of commencement of the Mining Rights Act, 1967, viz. **1 October 1967** [Proc. 237, Gazette No. 1850, dated 22 September 1967].*

Deeds Registries Amendment Act 61 of 1969 - Government Notice 859 in Government Gazette 2412, dated 28 May 1969. Commencement date: 1 November 1969, unless otherwise indicated [Proc. 187, Gazette No. 2482, dated 11 July 1969].

Deeds Registries Amendment Act 3 of 1972 - Government Notice 353 in Government Gazette 3404, dated 8 March 1972. Commencement date: 1 June 1972 [Proc. 125, Gazette No. 3506, dated 19 May 1972].

Land Survey Amendment Act 71 of 1972 - Government Notice 1038 in Government Gazette 3561, dated 14 June 1972. Commencement date: 1 November 1972 [Proc. R208, Gazette No. 3641, dated 1 September 1972].

General Law Amendment Act 62 of 1973 - Government Notice 1114 in Government Gazette 3947, dated 27 June 1973. Commencement date: 27 June 1973.

General Law Amendment Act 29 of 1974 - Government Notice 378 in Government Gazette 4220, dated 15 March 1974. Commencement date: 15 March 1974.

General Law Amendment Act 57 of 1975 - Government Notice 1214 in Government Gazette 4760, dated 20 June 1975. Commencement date: 1 September 1975 [Proc. R185, Gazette No. 4816, dated 15 August 1975].

Registration of Deeds in Rehoboth Act 93 of 1976 - Government Notice 1113 in Government Gazette 5183, dated 30 June 1976. Commencement date: 26 November 1976 [Proc. 255, Gazette No. 5341, dated 26 November 1976].

Expropriation Act 63 of 1975 - Government Notice 1314 in Government Gazette 4780, dated 9 July 1975. Commencement date: 1 January 1977 [Proc. 273, Gazette No. 5363, dated 24 December 1976].

Deeds Registries Amendment Act 41 of 1977 - Government Notice 593 in Government Gazette 5505, dated 13 April 1977. Commencement date: 13 April 1977.

Deeds Registries Amendment Act 92 of 1978 - Government Notice 1301 in Government Gazette 6074, dated 23 June 1978. Commencement date: 23 June 1978.

Deeds Registries Amendment Act 44 of 1980 - Government Notice 949 in Government Gazette 6991, dated 9 May 1980. Commencement date: 9 May 1980.

Deeds Registries Amendment Act 27 of 1982 - Government Notice 449 in Government Gazette 8079, dated 17 March 1982. Commencement date of s. 1 to 5 and 7 to 25: 1 July 1982 [Proc. 111, Gazette No. 8270, dated 25 June 1982].

Commencement date of s. 6: 1 October 1983 [Proc. 123, Gazette No. 8856, dated 26 August 1983].

Deeds Registries Amendment Act 62 of 1984 - Government Notice 1074 in Government Gazette 9241, dated 23 May 1984. Commencement date of s. 1 to 2, 4, 6 to 8 and 10: 1 September 1984 [Proc. 152, Gazette No. 9400, dated 31 August 1984].

Commencement date of s. 3, 5 and 9: to be proclaimed

Matrimonial Property Act 88 of 1984 - Government Notice 1517 in Government Gazette 9322, dated 25 July 1984. Commencement date: 1 November 1984 [Proc. R158, Gazette No. 9413, dated 7 September 1984].

Deeds Registries Amendment Act 62 of 1984 - Government Notice 1074 in Government Gazette 9241, dated 23 May 1984. Commencement date of s. 3, 5 and 9: 1 July 1985 [Proc. R103, Gazette No. 9792, dated 1 June 1985].

Black Communities Development Amendment Act 74 of 1986 - Government Notice 1421 in Government Gazette 10333, dated 4 July 1986. Commencement date: 15 September 1986 [Proc. 158, Gazette No. 10430, dated 12 September 1986].

Deeds Registries Amendment Act 75 of 1987 - Government Notice 2173 in Government Gazette 10952, dated 30 September 1987. Commencement date: 30 September 1987.

Marriage and Matrimonial Property Law Amendment Act 3 of 1988 - Government Notice 414 in Government Gazette 11171, dated 4 March 1988. Commencement date: 2 December 1988 [Proc. 203, Gazette No. 11595, dated 25 November 1988].

Deeds Registries Amendment Act 24 of 1989 - Government Notice 523 in Government Gazette 11777, dated 23 March 1989. Commencement date: 1 September 1989 [Proc. 156, Gazette No. 12070, dated 1 September 1989].

Less Formal Township Establishment Act 113 of 1991 - Government Notice 1508 in Government Gazette 13359, dated 5 July 1991. Commencement date: 1 September 1991 [Proc. 83, Gazette No. 13497, dated 30 August 1991].

Expropriation Amendment Act 45 of 1992 - Government Notice 1073 in Government Gazette 13922, dated 15 April 1992. Commencement date: 1 May 1992 [Proc. 36, Gazette No. 13935, dated 24 April 1992].

Deeds Registries Amendment Act 14 of 1993 - Government Notice 374 in Government Gazette 14631, dated 10 March 1993. Commencement date of the whole Act, except section 3: 1 April 1993 [Proc. 15, Gazette No. 14669, dated 26 March 1993].

Insolvency Amendment Act 122 of 1993 - Government Notice 1289 in Government Gazette 14988, dated 20 July 1993. Commencement date: 1 September 1993 [Proc. R82, Gazette No. 15102, dated 1 September 1993].

General Law Fourth Amendment Act 132 of 1993 - Government Notice 1852 in Government Gazette 15160, dated 6 October 1993. Commencement date: 1 December 1993 [Proc. R123, Gazette No. 15308, dated 1 December 1993].

Regional and Land Affairs Second General Amendment Act 170 of 1993 - Government Notice 2431 in Government Gazette 15348, dated 17 December 1993. Commencement date: 17 December 1993.

Deeds Registries Amendment Act 14 of 1993 - Government Notice 374 in Government Gazette 14631, dated 10 March 1993. Commencement date of section 3: 1 October 1994 [Proc. R170, Gazette No. 16059, dated 28 October 1994].

Development Facilitation Act 67 of 1995 - Government Notice 1526 in Government Gazette 16730, dated 4 October 1995. Commencement date: 22 December 1995 [Proc. R111, Gazette No. 16880, dated 22 December 1995].

Deeds Registries Amendment Act 11 of 1996 - Government Notice 598 in Government Gazette 17101, dated 12 April 1996. Commencement date: 12 April 1996.

Measures in the Rationalising of the Public Administration with Reference to the Department of Land Affairs under the Constitution of the Republic of South Africa, 1993 – Proclamation R9 in Government Gazette 17753, dated 31 January 1997. Commencement date: 31 January 1997.

Public Service Laws Amendment Act 47 of 1997 - Government Notice 1353 in Government Gazette 18366, dated 13 October 1997. Publication date: 13 October 1997.

Deeds Registries Amendment Act 93 of 1998 - Government Notice 1396 in Government Gazette 19416, dated 2 November 1998. Commencement date: 2 November 1998.

Land Affairs General Amendment Act 11 of 2000 - Government Notice 301 in Government Gazette 21028, dated 24 March 2000. Commencement date: 24 March 2000.

Recognition of Customary Marriages Act 120 of 1998 - Government Notice 1553 in Government Gazette 19539, dated 2 December 1998. Commencement date: 15 November 2000 [Proc. R66, Gazette No. 21700, dated 1 November 2000].

Deeds Registries Amendment Act 9 of 2003- Government Notice 600 in Government Gazette 24818, dated 30 April 2003. Commencement date: 30 April 2003.

Mining Titles Registration Amendment Act 24 of 2003 - Government Notice 1731 in Government Gazette 25762, dated 26 November 2003. Commencement date: 1 May 2004 (the date of commencement of the Mineral and Petroleum Resources Development Act 28 of 2002) [Proc. R25, Gazette No. 26264, dated 23 April 2004]

as amended by:

Minerals and Energy Laws Amendment Act 11 of 2005 - Government Notice 824 in Government Gazette 27897, dated 15 August 2005. Commencement date: 30 April 2004.

Deeds Registries Amendment Act 5 of 2006- Government Notice 712 in Government Gazette 29047, dated 19 July 2006. Commencement date: 19 July 2006.

Deeds Registries Amendment Act 12 of 2010- Government Notice 1149 in Government Gazette 33829, dated 2 December 2010. Commencement date: 2 December 2010.

Rural Development and Land Reform General Amendment Act 4 of 2011 - Government Notice 427 in Government Gazette 34300, dated 16 May 2011. Commencement date: 16 May 2011.

Deeds Registries Amendment Act 34 of 2013- Government Notice 1022 in Government Gazette 37173, dated 18 December 2013. Commencement date: 18 December 2013.

Deeds Registries Amendment Act 20 of 2024 - Government Notice 5649 in Government Gazette 51730 dated 10 December 2024. Commencement date: 10 December 2024 – unless otherwise indicated.

Publisher's note:

The Act has been amended by section 38 of Act 43 of 1962 by the substitution for the words "Crown" and "Crown land" wherever they occur therein of the words "State" and "State land" respectively.

Publisher's note:

The Act has been amended by section 15 of Act 3 of 1972 by the substitution for the words "Governor-General" and "Union" wherever they occur, of the words "State President" and "Republic" respectively.

Publisher's note:

The Act has been amended by section 24(1) of Act 27 of 1982 by the substitution for the expressions "registrar of Rand Townships" and "Rand Townships registrar" wherever they occur, of the expression "registrar at Johannesburg", and for the expressions "Rand Townships registration office at Johannesburg" and "Rand Townships registration office", wherever they occur, of the expression "deeds registry at Johannesburg".

Publisher's note:

The Act has been amended by section 10 of Act 11 of 1996 by the substitution for the expression "Regional and Land Affairs", wherever it occurs, of the expression "Land Affairs".

Publisher's note:

The Act has been amended by Schedule 1 of Proclamation R9 of 1997 by the substitution for the words "State President" and "Commission for Administration", wherever they occur, of the words "President" and "Public Service Commission" respectively.

ACT

To consolidate and amend the laws in force in the Republic relating to the registration of deeds.

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Republic of South Africa as follows:-

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**CHAPTER I
ADMINISTRATION**

1. Deeds registries

(1)

- (a) The Minister may from time to time, subject to the laws governing the public service, by notice in the *Gazette*-
 - (i) establish or disestablish deeds registries;
 - (ii) establish or disestablish sub-deeds registries within the area of deeds registries;
 - (iii) determine the names and situation of such offices, define the respective areas thereof, or amend any such determination or definition; and
 - (iv) subject to the provisions of this Act or any other law, determine the registration acts or other acts which are required or permitted to be performed in any such registry, or amend any such determination.
- (b) Any area defined under paragraph (a)(iii), may –
 - (i) consist of different non-adjoining regions; or
 - (ii) partly consist of a portion of an existing defined area excised therefrom.
- (c) The respective –
 - (i) deeds registries mentioned in paragraph (a) prior to the substitution thereof by section 1(a) of the Deeds Registries Amendment Act, 1984, shall at the commencement of that Act be deemed to have been established by the Minister by notice under paragraph (a) as so substituted; and
 - (ii) areas of those registries as defined in the Second Schedule prior to the repeal thereof by section 8 of the said Act, shall so be deemed to have been defined by the Minister under the said paragraph (a),

and every such deeds registry within such area shall at such commencement be a continuation of the registry which existed in its area immediately prior to that commencement.

- (d) The registration office at Johannesburg shall be a deeds registry, but only in connection with the registration of documents relating to immovable property in any township in the area served by that registration office and the documents referred to in paragraphs (j), (j)*bis* and (k) of subsection (1) of section 3, and the registration of other documents relating to the aforementioned documents and which is authorized by this Act.
- (e) The Minister may at any time in a similar manner withdraw any notice published under paragraph (a).

(Section 1(1) substituted by section 1 of Act 61 of 1969)

(Section 1(1) amended by section 1 of Act 3 of 1972)

(Section 1(1) substituted by section 1 of Act 27 of 1982)

(Section 1(1) substituted by section 1(a) of Act 62 of 1984)

(1A) After the commencement of section 1 of the Deeds Registries Amendment Act, 1969 –

- (a) any document affecting the title of the land included in a township referred to in subsection (1)(b) or of an erf in any such township shall, notwithstanding anything to the contrary in any other law contained, be registered only in the deeds registry at Johannesburg;
- (b) any such document registered in the deeds registry at Pretoria at such commencement and of which a copy has been furnished by the registrar at Pretoria to the registrar at Johannesburg in terms of any law repealed by section 10 of that Act or in terms of any other law, and has been entered by the last-mentioned registrar in his registers or is kept in his office, shall be deemed to be registered in the deeds registry at Johannesburg;
- (c) the copy of a document referred to in paragraph (b) shall for the purposes of any relevant law be deemed to be the registry duplicate of the document in question;
- (d) any entry made by the registrar at Johannesburg in the duplicate kept in his office of any register opened and kept in the deeds registry at Pretoria, and any entry in a copy of any such register furnished to that registrar in terms of any law, shall be deemed to be an entry in the register in question, and such register shall be kept by that registrar in so far as it may be relevant for the purposes of paragraph (a).

(Section 1(1A) inserted by section 1(b) of Act 61 of 1969)

(2)

(Section 1(2) deleted by section 1(b) of Act 62 of 1984)

(3)

(Section 1(3) deleted by section 1(b) of Act 62 of 1984)

1A. Discontinuance of rationalised registries: Transfer of their functions, records, other equipment and staff to a receiving deeds registry

(1) For the purposes of this section-

(a) a rationalised registry means –

- (i) the deeds registry established in terms of the Bophuthatswana Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (ii) the deeds registry established in terms of regulation 1 of Chapter 9 of the Bophuthatswana Regulations for the Administration and Control of Towns, Proclamation No. R. 293 of 1962;
- (iii) the registry of land titles established in terms of section 41 of the Bophuthatswana Black Areas Land Regulations, Proclamation No. R. 188 of 1969;
- (iv) the deeds registry established in terms of the Venda Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (v) the registration office established in terms of section 13 of the Venda Land Affairs Proclamation (Proclamation No. 45 of 1990);
- (vi) the deeds registry established in terms of the Ciskei Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (vii) the deeds registry established in terms of regulation 1 of Chapter 9 of the Ciskei Townships Proclamation, 1962 (Proclamation R. 293 of 1962);
- (viii) the registry of land titles established in terms of section 41 of the Ciskei Land Regulations Act, 1982 (Act No. 14 of 1982);
- (ix) the deeds registry established in terms of the Gazankulu Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (x) the deeds registry established in terms of regulation 1 of Chapter 9 of the Gazankulu Regulations for the Administration and Control of Townships in Black Areas, Proclamation No. R. 293 of 1962;
- (xi) the registry of land titles established in terms of section 41 of the Gazankulu Black Areas Land Regulations, Proclamation No. R. 188 of 1969;

- (xii) the deeds registry established in terms of the KaNwgane *[sic]* Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (xiii) the deeds registry established in terms of regulation 1 of Chapter 9 of the KaNwgane *[sic]* Regulations for the Administration and Control of Townships in Black Areas, Proclamation No. R. 293 of 1962;
- (xiv) the registry of land titles established in terms of section 41 of the KaNwgane Black Areas Land Regulations, Proclamation No. R. 188 of 1969;
- (xv) the deeds registry established in terms of the KwaNdebele Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (xi) the deeds registry established in terms of regulation 1 of Chapter 9 of the KwaNdebele Regulations for the Administration and Control of Towns, Proclamation No. R. 293 of 1962;
- (xvii) the registry of land titles established in terms of section 41 of the KwaNdebele *[sic]* Black Areas Land Regulations, Proclamation No. R. 188 of 1969;
- (xviii) the deeds registry established in terms of the KwaZulu Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (xix) the deeds registry established in terms of regulation 1 of Chapter 9 of the KwaZulu Regulations for the Administration and Control of Townships in Black Areas, Proclamation No. R. 293 of 1962;
- (xx) the registration office established in terms of section 11 of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992);
- (xxi) the deeds registry established in terms of the Lebowa Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (xxii) the deeds registry established in terms of regulation 1 of Chapter 9 of the Lebowa Regulations for the Administration and Control of Townships in Black Areas, Proclamation No. R. 293 of 1962;
- (xxiii) the registry of land titles established in terms of section 41 of the Lebowa Black Areas Land Regulations, Proclamation No. R. 188 of 1969;
- (xxiv) the deeds registry established in terms of the Qwaqwa Deeds Registries Act, 1937 (Act No. 47 of 1937);

(xxv) the deeds registry established in terms of regulation 1 of Chapter 9 of the Qwaqwa Regulations for the Administration and Control of Townships in Black Areas, Proclamation No. R. 293 of 1962;

(xxvi) the registry of land titles established in terms of section 41 of the Qwaqwa Black Areas Land Regulations, Proclamation No. R. 188 of 1969.

(b) the receiving registry means, in the case of –

(i) the registries mentioned in subparagraphs (vi), (vii) and (viii) of paragraph (a), the deeds registry at King William's Town;

(ii) the registries mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a), in respect of land that formed part of the former Republic of Bophuthatswana which after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), is situated in the province of-

(a) the Free State, the deeds registry at Bloemfontein;

(b) Gauteng, the deeds registry at Pretoria;

(c) Mpumalanga, the deeds registry at Pretoria;

(d) the North-West, situated –

(i) within the area defined in Schedule 3 to Proclamation No. R. 9 of 1997, the deeds registry at Pretoria;

(ii) outside the area defined in Schedule 3 to Proclamation No. R. 9 of 1997, the deeds registry at Vryburg; and

(e) the Northern Cape, the deeds registry at Vryburg;

(iii) the registries mentioned in subparagraphs (iv), (v), (ix) to (xvii), (xxi), (xxii) and (xxiii) of paragraph (a), the deeds registry at Pretoria;

(iv) the registries mentioned in subparagraphs (xviii), (xix) and (xx) of paragraph (a), the deeds registry at Pietermaritzburg; and

(v) the registries mentioned in subparagraphs (xxiv), (xxv) and (xxvi) of paragraph (a), the deeds registry at Bloemfontein.

- (2) Notwithstanding the repeal of the laws mentioned in the Schedule 2 to Proclamation No. R. 9 of 1997, a rationalised registry shall continue to exist until it is discontinued as contemplated in subsection (3).
- (3)
- (a) A rationalised registry shall be discontinued with effect from a date determined in respect of that registry by the Minister by notice in the *Government Gazette*.
- (b) Different dates may be so determined in respect of the different deeds registries.
- (4) The Minister may with effect from the date of commencement of Proclamation No. R. 9 of 1997, take the necessary steps to transfer the records, equipment and any other property of a rationalised registry to the respective receiving registry.
- (5) Any official in the employ of a rationalised registry shall with effect from the date contemplated in subsection (3) be transferred to the receiving registry and shall be suitably taken up in the establishment of the receiving deeds office: Provided that the appointment of a person as a registrar or officer in charge of a registry of a rationalised registry shall lapse on the date contemplated in subsection (3).
- (6) All records of a rationalised registry shall with effect from the date contemplated in subsection (3) be transferred to the receiving registry.

(Section 1A inserted by Schedule 1 of Proc. R9 of 1997)

2. Appointment of registrar, deputy registrar and assistant registrar of deeds

(Heading substituted by section 1(a) of Act 12 of 2010)

(Heading of section 2 substituted by section 1(a) of Act 20 of 2024)

- (1) The Minister shall appoint, in terms of the Public Service Act, 1994 (Proclamation 103 of 1994)—
- (a)
- (b) in respect of each registry, a registrar of deeds, who shall be in charge of the deeds registry in respect of which he or she has been appointed;
- (c) for a deeds registry, one or more deputy registrars of deeds and one or more assistant registrars of deeds, who shall respectively have the power, subject to the regulations, to perform any act which may lawfully be done under this Act or any other law by a registrar;
- (d) for the office of the chief registrar of deeds, one or more registrars of deeds, one or more deputy registrars of deeds, and one or more assistant registrars of deeds.

(Section 2(1) amended by section 1 of Act 43 of 1957)

(Section 2(1) amended by section 1(a) of Act 43 of 1962)

(Section 2(1) amended by section 1(a) of Act 87 of 1965)

(Section 2(1) amended by section 2(a) of Act 61 of 1969)

(Section 2(1) amended by section 2 of Act 3 of 1972)

(Section 2(1) amended by section 2(a) of Act 27 of 1982)

(Section 2(1) amended by section 2(a) of Act 62 of 1984)

(Section 2(1) amended by Schedule 1 of Proc. R9 of 1997)

(Section 2(1) substituted by section 1(b) of Act 20 of 2024)

(1)*bis*

*(Section 2(1)*bis* inserted by section 1 of Act 43 of 1957)*

*(Section 2(1)*bis* effectively deleted by section 1(b) of Act 87 of 1965)*

(1A) Whenever any registrar, deputy registrar or assistant registrar of deeds, because of absence or for any other reason, is unable to carry out the functions of that office, or whenever such office becomes vacant, the Minister may authorize any officer in a deeds registry or in the office of the chief registrar of deeds, to act in the place of such registrar, deputy registrar or assistant registrar during the period of such absence or incapacity, or to act in the vacant office until the vacancy is filled, as the case may be.

(Section 2(1A) inserted by section 7(b) of Act 62 of 1973)

(Section 2(1A) substituted by section 2(b) of Act 27 of 1982)

(Section 2(1A) substituted by section 1(a) of Act 93 of 1998)

(Section 2(1A) substituted by section 1(c) of Act 20 of 2024)

(1B) The Minister may authorise any person to act temporarily, and either generally or in a particular matter, as assistant registrar of deeds in respect of any deeds registry additional to any assistant registrar or acting assistant registrar of the deeds registry concerned. Such a person must have proven appropriate expertise or the capacity to acquire, within a reasonable time, the ability required to perform the functions of that office, regard being had to the time available and the nature and extent of those functions and the responsibilities of that office.

(Section 2(1B) inserted by section 7(b) of Act 62 of 1973)

(Section 2(1B) substituted by section 2(b) of Act 27 of 1982)

(Section 2(1B) substituted by section 1(b) of Act 93 of 1998)

(1C) The Minister may delegate any power conferred on him or her by this section, to the Director-General: Agriculture, Land Reform and Rural Development or a Deputy Director-General in the Department of Agriculture, Land Reform and Rural Development.

(Section 2(1C) inserted by section 7(b) of Act 62 of 1973)

(Section 2(1C) substituted by section 2(b) of Act 27 of 1982)

(Section 2(1C) substituted by section 1 of Act 14 of 1993)

(Section 2(1C) substituted by section 1 of Act 4 of 2011)

(Section 2(1C) substituted by section 1(d) of Act 20 of 2024)

(1D)

(Section 2(1D) inserted by section 1(b) of Act 12 of 2010)

(Section 2(1D) deleted by section 1(e) of Act 20 of 2024)

(2)

- (a) No person shall be appointed as registrar of deeds or deputy registrar of deeds after the commencement of section 2 of the Deeds Registries Amendment Act, 1984 (Act No. 62 of 1984), unless he or she has passed a degree, recognized by the Minister for the Public Service and Administration.
- (b) No person shall be appointed, after the commencement of section 2 of the Deeds Registries Amendment Act, 1984 (Act No. 62 of 1984), as assistant registrar of deeds, unless he or she has passed the final examination for the Diploma *iuris*, or any other diploma or a degree, that is recognized by the Minister for the Public Service and Administration to be equivalent thereto, and has proven appropriate expertise or the capacity to acquire, within a reasonable time, the ability required to perform the functions of that office, regard being had to the time available and the nature and extent of those functions and the responsibilities of that office.

(Section 2(2) deleted by section 1(b) of Act 43 of 1962)

(Section 2(2) substituted for section 2(1)bis by section 1(b) of Act 87 of 1965)

(Section 2(2) substituted by section 2(b) of Act 61 of 1969)

(Section 2(2) amended by section 7(c) of Act 62 of 1973)

(Section 2(2) substituted by section 2(b) of Act 27 of 1982)

(Words preceding the proviso to section 2(2) substituted by section 2(b) of Act 62 of 1984)

(Section 2(2) substituted by section 1 of Act 14 of 1993)

(Section 2(2) substituted by section 35 of Act 47 of 1997)

(Section 2(2) substituted by section 1(c) of Act 93 of 1998)

(Section 2(2) substituted by section 1(f) of Act 20 of 2024)

- (3) Any person holding, at the commencement of section 1 of the Deeds Registries Amendment Act, 2024, the office of registrar or assistant registrar or deputy registrar of deeds, shall be deemed, as from the date of such commencement, to have been appointed under this section as registrar, or assistant registrar or deputy registrar of deeds, as the case may be.

(Section 2(3) substituted by section 2(b) of Act 27 of 1982)

(Section 2(3) substituted by section 2(c) of Act 62 of 1984)

(Section 2(3) substituted by section 1(f) of Act 20 of 2024)

- (4) Every registrar appointed under or referred to in this section is hereinafter referred to as the registrar.
- (5) Each registrar shall have a seal of office which shall be affixed to all deeds executed or attested by him and to all copies of deeds issued by him to serve in lieu of the original deeds.

2A. Appointment of chief registrar of deeds

- (1) The Minister shall, in accordance with the Public Service Act, 1994 (Proclamation 103 of 1994), appoint a person who is holding, or who previously held, the position of a registrar of deeds, to be called the chief registrar of deeds.
- (2) The chief registrar of deeds shall, subject to the directions of the Minister, exercise the powers and perform the duties conferred upon, or assigned to, the chief registrar of deeds by this Act or any other law.
- (3) Whenever the chief registrar of deeds, because of absence or for any other reason, is unable to carry out the functions of that office, or whenever such office becomes vacant, the Minister may authorise any registrar contemplated in sections 2(1)(b) and (d), to act in the place of such chief registrar of deeds during the period of such absence or incapacity, or to act in the vacant office until the vacancy is filled, as the case may be.
- (4) The Minister may delegate any power conferred on him or her by this section, to the Director-General: Agriculture, Land Reform and Rural Development.
- (5) The provisions of section 2(2) apply with the necessary changes to the appointment of a chief registrar of deeds.
- (6) Any person holding, at the commencement of section 2 of the Deeds Registries Amendment Act, 2024, the office of chief registrar of deeds, and who, on a date prior to such commencement ceased also to hold the office of registrar of deeds, shall as from that date, be deemed to have been appointed under this section as chief registrar of deeds.

(Section 2A inserted by section 2 of Act 20 of 2024)

2B. Responsibilities of chief registrar of deeds

- (1) The chief registrar of deeds shall lead the—
 - (a) management of Deeds Registration Corporate Support Services;
 - (b) management of the Deeds Registration Information Communication Technology Services;
 - (c) management of the Deeds Registration Legislation, Litigation and Training Services;
 - (d) coordination of service delivery by all deeds registries and Chief Directorates in the Branch: Deeds Registration; and
 - (e) audit and risk management regarding all deeds registries and Chief Directorates in the Branch: Deeds Registration and report findings to the Director-General.

(Section 2B inserted by section 2 of Act 20 of 2024)

2C. Duties of chief registrar of deeds

- (1) The chief registrar of deeds shall, subject to the provisions of this Act or any other law—
- (a) act as chairperson and executive officer of—
 - (i) the deeds registries regulations board referred to in section 9; and
 - (ii) the sectional titles regulations board referred to in section 54 of the Sectional Titles Act, 1986 (Act No. 95 of 1986);
 - (b) develop, establish and maintain the electronic deeds registration system, as contemplated in section 2 of the Electronic Deeds Registration Systems Act, and maintain the current deeds registration system until fully replaced by the electronic deeds registration system;
 - (c) exercise such supervision over all the deeds registries as may be necessary to bring about uniformity in their practice and procedure: Provided that the supervision includes the issuing of practice and procedure directives;
 - (d) provide opinions in respect of matters referred for a reviewing process;
 - (e) be accountable for the deeds registration system;
 - (f) be accountable for the deeds registration information; and
 - (g) be accountable for the storing of deeds and documents as contemplated in section 2(1) of the Electronic Deeds Registration Systems Act.

(Section 2C inserted by section 2 of Act 20 of 2024)

3. Duties of registrar.

- (1) The registrar shall, subject to the provisions of this Act-
- (a) take charge of and, except as provided in subsection (2) or (3), preserve or cause to be preserved all records which were prior to the commencement of this Act, or may become after such commencement, records of any deeds registry in respect of which he has been appointed: Provided that the registrar may destroy or otherwise dispose of any record as prescribed which has been cancelled in terms of this subsection or any record in connection with a caveat that has expired in terms of section 17(3), 18B or 127A of the Insolvency Act, 1936 (Act No. 24 of 1936);

(Section 3(1)(a) amended by section 1(a) of Act 41 of 1977)

(Section 3(1)(a) substituted by section 9 of Act 122 of 1993)

- (b) examine all deeds or other documents submitted to him for execution or registration, and after examination reject any such deed or other document the execution or registration of which is not permitted by this Act or by any other law, or to the execution or registration of which any other valid objection exists: Provided that such deed or document need not be examined in its entirety before being rejected;
- (c) register grants or leases of land lawfully issued by the Government or grants issued by any other competent authority, and register amendments, renewals and cancellations of such leases, and releases of any part of the property leased;
- (d) attest or execute and register deeds of transfer of land, and execute and register certificates of title to land;
- (d)*bis* register deeds of transfer of initial ownership as contemplated in section 62 of the Development Facilitation Act, 1995;
(Section 3(1)(d)bis inserted by section 68 of Act 67 of 1995)
- (e) attest and register mortgage bonds;
- (f) register cessions (including cessions made as security) of registered mortgage bonds, and register cancellations of such cessions if made as security;
- (g) register cancellations of registered mortgage bonds, releases of any part of the property hypothecated thereby or of all such property if the debt is further secured by a collateral bond, releases of any joint debtor or of any surety in respect of any such bond, the substitution of another person for a debtor in respect of any such bond, reductions of cover in respect of any such bond intended to secure future debts, and part payments of the capital amount due in respect of any such bond other than a bond intended to secure future debts;
- (h) register waivers of preference in respect of registered mortgage bonds and notarial bonds with regard to the whole or any part of the property hypothecated thereby in favour of other such bonds whether registered or about to be registered;
- (i) register waivers of preference in respect of registered real rights in land, in favour of mortgage bonds and leases, whether registered or about to be registered;
(Section 3(1)(i) substituted by section 3(b) of Act 20 of 2024)
- (j) register notarial bonds, and cancellations and cessions thereof (including cessions made as security) and cancellations of such cessions if made as security;

(j)*bis* register releases of any part of the property hypothecated by any registered notarial bond or of all such property if the debt is further secured by a collateral bond, releases of any joint debtor or of any surety in respect of any such bond, reductions of cover in respect of any such bond intended to secure future debts, and part payments in respect of the capital amount due in respect of any such bond other than a bond intended to secure future debts;

(k) register antenuptial contracts, including orders under section 20, and contracts contemplated in section 21, of the Matrimonial Property Act, 1984, and register such notarial deeds having reference to persons and property within the area served by the registry in question as are required or permitted by law to be registered;

(Section 3(1)(k) substituted by section 28 of Act 88 of 1984)

(Section 3(1)(k) substituted by section 1 of Act 11 of 1996)

(l)

(Section 3(1)(l) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(m)

(Section 3(1)(m) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(n)

(Section 3(1)(n) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(o) register any servitude, whether personal or praedial, and record the modification or extinction of any registered servitude;

(p) register notarial leases, sub-leases, and cessions of leases or of sub-leases, of land, and notarial cessions of underhand leases or sub-leases of land, which have been registered prior to the commencement of this Act, and notarial amendments of such leases and sub-leases, and notarial renewals and notarial cancellations of such leases and sub-leases and notarial releases of any part of the property leased;

(p)*bis* despite the repeal of the regulations, proclamations and by-laws made under sections 25(1), 30(2) and 30A(1) of the Black Administration Act, 1927 (Act No. 38 of 1927), by the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act No. 28 of 2005)-

(i) continue to register any registrable transaction concerning a right originally acquired in terms of or under the Black Administration Act, 1927, in accordance with the legislation which created that right; and

(ii) exercise all the other powers and perform all the other duties vested in or imposed upon a Chief Commissioner or registration officer by or under the Black Administration Act, 1927;

*(Section 3(1)(p)*bis* inserted by section 1 of Act 5 of 2006)*

(q)

(Section 3(1)(q) substituted by section 1 of Act 44 of 1980)

(Section 3(1)(q) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(r) register any real right, not specifically referred to in this sub-section, and any cession, modification or extinction of any such registered right;

(s) register against any registered mortgage or notarial bond any agreement entered into by the mortgagor and the holder of that bond, whereby any terms of that bond, with the exception of terms relating to the relevant cause of debt, the mortgaged security or the amount of the debt secured by the bond, have been varied;

(Section 3(1)(s) substituted by section 3 of Act 27 of 1982)

(t) register general plans of erven or of sub-divisions of land, open registers of the erven or sub-divisions of land shown on such general plans, and record the conditions upon which the erven or sub-divisions have been laid out or established;

(Section 3(1)(t) substituted by section 1(a) of Act 92 of 1978)

(u) register powers of attorney whereby the agents named therein are authorized to act generally for the principals granting such powers, or to carry out a series of acts or transactions registrable in a deeds registry, or which have been issued for the purpose of being acted upon in a deeds registry by a Master or registrar of the High Court of South Africa;

(Section 3(1)(u) substituted by section 2(a) of Act 12 of 2010)

(Section 3(1)(u) substituted by section 3(c) of Act 20 of 2024)

(v) make, in connection with the registration of any deed or other document, or in compliance with the requirements of any law, such endorsements on any registered deed or other document as may be necessary to give effect to such registration or to the objects of such law;

(w) record all notices, returns, statements, or orders of court lodged with him in terms of any law;

(x) remove from his records, with the approval of the Master and after the lapse of ten years from the date of entry in such records, any entry made therein, whether before or after the commencement of this Act, in pursuance of the transmission to him of a notice of liquidation or an order of liquidation or sequestration;

(Section 3(1)(x) substituted by section 2(b) of Act 14 of 1993)

(y) keep, whether by means of a computer or in any other manner or by means of a computer and in any other manner, such registers containing such particulars as are necessary for the purpose of carrying out the provisions of this Act or any other law and of maintaining an efficient system of registration calculated to afford security of title and ready reference to any registered deed;

(Section 3(1)(y) substituted by section 1(b) of Act 92 of 1978)

- (z) implement practice and procedure directives that are issued from time to time by the chief registrar of deeds.

(Section 3(1)(z) added by section 2(b) of Act 12 of 2010)

and generally the registrar shall discharge all such duties as by law may or are to be discharged by a registrar of deeds or as are necessary to give effect to the provisions of this Act: Provided that nothing in this Act contained shall be construed as imposing upon the registrar at Johannesburg the duty of registering any deed or other document which he would not have registered if this Act had not been passed.

(2)

- (a) If the registrar concerned is satisfied that any record referred to in paragraph (a) of sub-section (1) has become so dilapidated or has deteriorated to such an extent that it requires urgent restoration for the preservation thereof, he may transfer such record to the Director of Archives for restoration and preservation.

- (b) The Director of Archives shall-

- (i) forthwith furnish the registrar concerned with so many photographic copies of any record received for restoration and preservation as the registrar may require;
- (ii) as soon as any record has been restored for preservation, furnish the registrar concerned with so many photographic copies thereof as the registrar may require;
- (iii) preserve any record restored under this sub-section in the archives depot at the seat of the provincial administration within the territorial limits of which the deeds registry in question is situate.

- (c) Any photographic copy (certified by the Director of Archives or any person designated by him for the purpose) of any record furnished under this sub-section by the Director of Archives to a registrar of deeds shall, for the purposes of a deeds registry, be deemed to be the original record.

- (3) The registrar concerned may reproduce or cause to be reproduced any record referred to in paragraph (a) of subsection (1) by means of microfilming or any other process which in his opinion accurately reproduces any such record in such manner that any such reproduction forms a durable medium for reproducing and preserving any such record, and preserve or cause to be preserved such reproduction in lieu of such record.

(Section 3(3) added by section 1(b) of Act 41 of 1977)

- (4) A reproduction referred to in sub-section (3) shall, for the purposes of a deeds registry, be deemed to be the original record, and a copy obtained by means of such reproduction and which has been certified by the registrar as a true copy of such reproduction shall be admissible in evidence and shall have all the effects of the original record concerned.

(Section 3(4) added by section 1(b) of Act 41 of 1977)

(Section 3 amended by section 14 of Act 50 of 1956)

(Section 3 amended by section 2 of Act 43 of 1957)

(Section 3 amended by section 2 of Act 43 of 1962)

(Section 3 substituted by section 2 of Act 87 of 1965)

4. Powers of registrar

- (1) Each registrar shall have power-

- (a) to require the production of proof upon affidavit or otherwise of any fact necessary to be established in connection with any matter or thing sought to be performed or effected in his registry;
- (b) whenever it is in his opinion necessary or desirable to rectify in any deed or other document, registered or filed in his registry, an error in the name or the description of any person or property mentioned therein or in the conditions affecting any such property, to rectify the error: Provided that-
- (i) every person appearing from the deed or other document to be interested in the rectification, has consented thereto in writing;
- (ii) if any such person refuse *[sic]* to consent thereto the rectification may be made on the authority of an order of Court;
- (iii) if the error is common to two or more deeds or other documents, including any register in his or her registry, the error shall be rectified in all those deeds or other documents, unless the registrar, on good cause shown, directs otherwise;

(Section 4(1)(b)(iii) substituted by section 1 of Act 34 of 2013)

- (iv) no such rectification shall be made if it would have the effect of transferring any right;

- (v)

(Section 4(1)(b)(v) deleted by section 3 of Act 43 of 1957)

(Section 4(1)(b) amended by section 3 of Act 43 of 1957)

- (c) to issue, under conditions prescribed by regulation, certified copies of deeds or other documents registered or filed in his registry;
- (d) if in his opinion any deed or other document submitted to him has become illegible or unserviceable, to require that a certified copy thereof be obtained to take its place.

(2)

(Section 4(2) deleted by section 2 of Act 170 of 1993)

5. Transactions affecting land in areas served by different deeds registries.

If it is sought to register transactions affecting separate pieces of land situate within the areas served by different deeds registries, the registrars concerned may, subject to the provisions of any regulations, by mutual arrangement, effect such registration in such manner as may be found expedient.

6. Registered deeds not to be cancelled except upon an order of Court

- (1) Save as is otherwise provided in this Act or in any other law no registered deed of grant, deed of transfer, certificate of title or other deed conferring or conveying title to land, or any real right in land other than a mortgage bond, and no cession of any registered bond not made as security, shall be cancelled by a registrar except upon an order of Court.

(Section 6 renumbered to 6(1) by section 3 of Act 43 of 1962)

- (2) Upon the cancellation of any deed conferring or conveying title to land or any real right in land other than a mortgage *[sic]* bond as provided for in sub-section (1), the deed under which the land or such real right in land was held immediately prior to the registration of the deed which is cancelled, shall be revived to the extent of such cancellation, and the registrar shall cancel the relevant endorsement thereon evidencing the registration of the cancelled deed.

(Section 6(2) added by section 3 of Act 43 of 1962)

7. Inspection of records and supply of information

- (1) Each registrar and the chief registrar of deeds shall, on conditions prescribed and upon payment of the prescribed fees, permit any person to inspect the public registers and other public records in his or her registry, other than the index to such registers or records, and in the case of the chief registrar of deeds, he or she may permit any person to inspect the registers on the deeds registration system, and permit any such person to make copies of those records or extracts from those registers and to obtain such other information concerning deeds or other documents registered or filed in the registry as prior to the commencement of this Act could, customarily, be made or obtained.

(Section 7(1) substituted by section 4 of Act 20 of 2024)

- (2) Notwithstanding anything to the contrary in any other law contained, no person (including the State) shall be exempted from the payment of the prescribed fees referred to in subsection (1).

(Section 7 amended by section 4 of Act 43 of 1957)

(Section 7 substituted by section 3 of Act 87 of 1965)

(Section 7 substituted by section 3 of Act 14 of 1993 with effect from 1 October 1994)

8.

(Section 8 repealed by section 4 of Act 43 of 1962)

9. Regulations board

- (1) There shall be established a deeds registries regulations board (in this section called 'the board'), which shall—

- (a) make recommendations to the Minister concerning any matter specified in section 10 of this Act and section 5 of the Electronic Deeds Registration Systems Act, in regard to which the Minister may make regulations;
- (b) keep the operation and implementation of this Act and the Electronic Deeds Registration Systems Act, and its regulations under regular review and make recommendations to the Minister in regard to any amendments or other action which may be advisable;
- (c) serve as a consultative body as contemplated by section 2(2) of the Electronic Deeds Registration Systems Act; and
- (d) advise the Minister on any matter referred to it by the Minister.

(Section 9(1) substituted by section 5(a) of Act 20 of 2024)

- (2) The board shall consist of the chief registrar of deeds as chairperson and executive officer as contemplated in section 2C(1)(a)(i), the Senior Financial Officer: Deeds Registration, the Chief Director Deeds Registration: Information, Communication and Technology, and seven other members appointed by the Minister, of whom—

(Words preceding section 9(2)(a) substituted by section 5(b) of Act 20 of 2024)

- (a) one shall be an officer occupying an office mentioned in section 2(1)(b) or (c);
- (b) one shall be an officer of the Department of Agriculture, Land Reform and Rural Development;

(Section 9(2)(b) substituted by section 4(1)(a) of Act 27 of 1982)

(Section 9(2)(b) substituted by section 4 of Act 14 of 1993)

(Section 9(2)(b) substituted by section 3(a) of Act 12 of 2010)

(Section 9(2)(b) substituted by section 5(c) of Act 20 of 2024)

- (c) two shall be conveyancers nominated by the South African Legal Practice Council established in terms of section 4 of the Legal Practice Act;

(Section 9(2)(c) substituted by section 5(c) of Act 20 of 2024)

- (d) one shall be a conveyancer from the Office of the State Attorney;

(Section 9(2)(d) added by section 5(d) of Act 20 of 2024)

- (e) one shall be a Senior Financial Officer of the Department of National Treasury; and

(Section 9(2)(e) added by section 5(d) of Act 20 of 2024)

- (f) one shall be an officer in the employ of the Banking Association of South Africa.

(Section 9(2)(f) added by section 5(d) of Act 20 of 2024)

(3)

- (a) A member of the board appointed by the Minister shall hold office for the period determined by the Minister, but the Minister may, if in his or her opinion there is good reason for doing so, terminate the appointment of such a member at any time before the expiration of his or her period of office.

(Section 9(3)(a) substituted by section 5(e) of Act 20 of 2024)

- (b) A member of the board whose period of office has expired shall be eligible for re-appointment.

(3A)

- (a) The Minister must in the same manner in which a member of the board is appointed in terms of subsection (2), appoint an alternate member for each member of the board.

- (b) An alternate member may in the absence of a member of the board from a meeting of the board, attend such meeting on behalf of such member and is deemed to be a member of that meeting.

- (c) The provisions of subsections (3), (3B) and (3C) are, with the necessary changes, applicable to the appointment of an alternate member.

(Section 9(3A)(c) substituted by section 5(f) of Act 20 of 2024)

(Section 9(3A) inserted by section 3(b) of Act 12 of 2010)

- (3B) If a member of the board dies or vacates his or her office before the expiration of his or her period of office, the Minister may, subject to subsection (2), appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(Section 9(3B) inserted by section 5(g) of Act 20 of 2024)

- (3C) A member of the board, excluding a member in the full-time service of the State, shall, while he or she is engaged in the business of the board, be paid such remuneration, travelling and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

(Section 9(3C) inserted by section 5(g) of Act 20 of 2024)

(4)

- (a) The board shall meet at the times and places determined by the chairperson.
- (b) The Minister may at any time direct the [chairman] chairperson of the board to convene a meeting of the board at a time and place specified by the Minister.

(Section 9(4) substituted by section 5(h) of Act 20 of 2024)

- (5) In the absence of the chairperson of the board, the member referred to in subsection (2)(a) shall act as chairperson.

(Section 9(5) substituted by section 5(h) of Act 20 of 2024)

(6)

- (a) Subject to paragraph (c), five members of the board who have a vote on a specific matter, of whom one shall be a member appointed in terms of subsection (2)(c), shall form a quorum for a meeting of the board.

(Section 9(6)(a) substituted by section 5(i) of Act 20 of 2024)

- (b) The decision of a majority of the members present at any meeting of the board shall be the decision of the board, and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(c)

- (i) The Senior Financial Officer: Deeds Registration and the member appointed in terms of subsection (2)(e) shall only have a vote in respect of financial aspects;
- (ii) The members appointed in terms of subsections (2)(c) and (2)(f) shall not have a vote in respect of financial matters.

(Section 9(6)(c) added by section 5(j) of Act 20 of 2024)

- (7) The board may regulate the proceedings at its meetings as it may think fit and shall cause minutes of such proceedings to be kept.
- (8) The board may make recommendations to the Minister concerning matters specified in section 10 also without holding a meeting, provided that any recommendation so made have been agreed to by all the members of the board.

(Section 9(8) substituted by section 5(k) of Act 20 of 2024)

- (9) Regulations made by the Minister shall be published in the *Gazette* at least one month before the date specified in the relevant notice as the date of commencement thereof.

(Section 9(9) substituted by section 4(1)(b) of Act 27 of 1982)

(Section 9(9) substituted by section 5(k) of Act 20 of 2024)

- (10) The provisions of section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply *mutatis mutandis* with reference to regulations made by the Minister and published in the *Gazette* under subsection (9).

(Section 9(10) substituted by section 4(1)(b) of Act 27 of 1982)

(Section 9(10) substituted by section 5(k) of Act 20 of 2024)

(Section 9 amended by section 3 of Act 3 of 1972)

(Section 9 amended by section 17 of Act 71 of 1972)

(Section 9 amended by section 8 of Act 62 of 1973)

(Section 9 substituted by section 9 of Act 57 of 1975)

10. Regulations

- (1) The Minister may, upon recommendation of the deeds registries regulations board, make regulations prescribing—

(Words preceding section 10(1)(a) substituted by section 6(a) of Act 20 of 2024)

- (a)

(Section 10(1)(a) deleted by section 2(a) of Act 92 of 1978)

- (b) the fees of office (if any) to be charged in respect of any act, matter or thing required or permitted to be done in or in relation to a deeds registry, including any report made to the court by the registrar in terms of this Act and the manner in which the payment of the fees may be enforced, which may include the suspension of lodgement or lodgement facilities for deeds or any other document by any person in default of payment of such fees;

(Section 10(1)(b) substituted by section 1 of Act 11 of 2000)

- (c)

(Section 10(1)(c) deleted by section 3(a) of Act 170 of 1993)

- (d) the manner and form in which and the qualifications of the person by whom any deed or other document required or permitted to be lodged, registered or filed in any deeds registry shall be prepared, lodged, executed, registered, filed or delivered and the time within which any deed shall be executed;

(Section 10(1)(d) amended by section 5(a) of Act 43 of 1962)

- (e)

(Section 10(1)(e) deleted by section 2(a) of Act 92 of 1978)

- (f) the particular documents which, when produced in a deeds registry, shall be attested or witnessed, and the manner in which any such document shall be attested or witnessed;

- (g) the divisions, districts or other areas within the area served by any deeds registry, which shall be adopted in numbering for the purposes of registration, the farms or other pieces of land situate therein;
- (h) the method according to which farms or other pieces of land in any such division, district or other area shall be numbered;
- (i)
(Section 10(1)(i) deleted by section 2(a) of Act 92 of 1978)
- (j) the manner and form in which the identity of persons shall be established;
(Section 10(1)(j) substituted by section 2(b) of Act 92 of 1978)
- (k) the conditions upon which conveyancers, land surveyors and other persons may conduct any search in a deeds registry, and the precautions which shall be taken to ensure preservation of the records from damage by improper handling or otherwise;
(Section 10(1)(k) amended by section 5 of Act 43 of 1957)
- (l)
(Section 10(1)(l) deleted by section 2(a) of Act 92 of 1978)
- (m) the conditions under which copies of deeds and other documents registered in a deeds registry may be issued for judicial purposes, or purposes of information or in substitution of deeds or other documents which have been lost, destroyed, defaced or damaged and the conditions under which extracts from registers or from any documents registered or filed in a deeds registry may be furnished;
- (n) the manner and form in which consent shall be signified to any cancellation, cession, part payment, release or amendment of or other registrable transaction affecting any bond or other document registered in a deeds registry;
- (o) the conditions under which a copy of a power of attorney may be accepted by a registrar in lieu of the original;
- (p) the forms of deeds which shall be used in circumstances not provided for in this Act;
- (q) the form of applications, deeds and registers which shall be used in connection with the registration of a right of leasehold, of initial ownership contemplated in section 62 of the Development Facilitation Act, 1995, and any other real right in respect of land held under such right of leasehold or initial ownership;
(Section 10(1)(q) amended by section 5(b) of Act 43 of 1962)

(Section 10(1)(q) deleted by section 2(a) of Act 92 of 1978)

(Section 10(1)(q) inserted by section 3 of Act 62 of 1984 with effect from 1 July 1985)

(Section 10(1)(q) substituted by section 5(a) of Act 14 of 1993)

(Section 10(1)(q) substituted by section 68 of Act 67 of 1995)

(r)

(Section 10(1)(r) deleted by section 2(a) of Act 92 of 1978)

(r)*bis* the records which may be destroyed in terms of the proviso to paragraph (a) of sub-section (1) of section *three*;

(Section 10(1)(r)bis inserted by section 4(a) of Act 87 of 1965)

(s) any matter which under this Act is required or permitted to be prescribed;

(Section 10(1)(s) amended by section 6(c) of Act 20 of 2024)

(t) the manner and form in which personal information relating to race, gender, citizenship and nationality of land owners in South Africa may be collected for statistical and land audit purposes only, and only for capturing such information into a register for official use by any department of state or administration in the national or provincial sphere of government

(Section 10(1)(t) added by section 6(d) of Act 20 of 2024)

(2) Different regulations may be made in respect of the several deeds registries and the matters to be dealt with therein.

(3) Any regulations made under paragraph (g) or (h) of sub-section (1) shall come into operation within the areas served by the several deeds registries upon dates to be fixed by the Minister by notice in the *Gazette*.

(Section 10(3) substituted by section 2(c) of Act 92 of 1978)

(4)

(Section 10(4) substituted by section 4(b) of Act 87 of 1965)

(Section 10(4) deleted by section 3(b) of Act 170 of 1993)

(5)

(Section 10(5) substituted by section 4(b) of Act 87 of 1965)

(Section 10(5) deleted by section 5 of Act 27 of 1982)

(6)

(Section 10(6) deleted by section 5 of Act 27 of 1982)

(7)

(Section 10(7) added by section 4 of Act 3 of 1972)

(Section 10(7) deleted by section 5(b) of Act 14 of 1993)

CHAPTER II REGISTRATION

Registers

11.

(Section 11 repealed by section 3 of Act 92 of 1978)

12.

(Section 12 amended by section 6 of Act 43 of 1962)

(Section 12 repealed by section 4 of Act 92 of 1978)

General Provisions

13. When registration takes place

- (1) Deeds executed or attested by a registrar shall be deemed to be registered upon the affixing of the registrar's signature thereto, and deeds, documents or powers of attorney lodged for registration shall be deemed to be registered when the deeds registry endorsement in respect of the registration thereof is signed: Provided that no such deed, document or power which is one of a batch of inter-dependent deeds, documents or powers of attorney intended for registration together, shall be deemed to be registered until all the deeds, documents or powers of attorney or the registration endorsements in respect thereof, as the case may be, have been signed by the registrar.
- (2) If by inadvertence the registrar's signature has not been affixed to a deed executed or attested by him, or to the registration endorsement in respect of the registration of a deed, document or power of attorney lodged for registration, at the time at which the signature should have been affixed in the ordinary course, the registrar may affix his signature thereto when the omission is discovered, and the deed, document or power of attorney shall thereupon be deemed to have been registered at the time aforesaid.
- (3) All endorsements or entries made on deeds, documents or powers of attorney or in registers, in connection with the registration of any deed, document or power of attorney, shall be deemed to have been effected simultaneously with the affixing of the signature of the registrar thereto in respect of deeds executed or attested by a registrar or with the signing of his registration endorsement in respect of deeds, documents or powers of attorney lodged for registration, although in fact they may have been made subsequent thereto.
- (4) Any deed, document or endorsement which under this section is required to be signed by a registrar, may, if the registrar is not available to sign such deed, document or endorsement, be signed by the

successor in office of the registrar or by any person acting in the place of the registrar, whereupon any reference in sub-section (1) or (3) to the signature of the registrar shall be deemed to include a reference to the signature of such successor or person acting as registrar, as the case may be.

(Section 13(4) added by section 5 of Act 87 of 1965)

(Section 13 substituted by section 6 of Act 43 of 1957)

14. Deeds to follow sequence of their relative causes.

- (1) Save as otherwise provided in this Act or in any other law or as directed by the court-
- (a) transfers of land and cessions of real rights therein shall follow the sequence of the successive transactions in pursuance of which they are made, and if made in pursuance of testamentary disposition or intestate succession they shall follow the sequence in which the right to ownership or other real right in the land accrued to the persons successively becoming vested with such right;
 - (b) it shall not be lawful to depart from any such sequence in recording in any deeds registry any change in the ownership in such land or of such real right: Provided that-
 - (i) if the property has passed in terms of a will or through intestate succession from a deceased person to his descendants, and one or other of these descendants has died a minor and intestate and no executor has been appointed in his estate, transfer or cession of the property which has vested in that descendant may be passed by the executor in the estate of the deceased person direct to the heirs *ab intestato* of the descendant;
 - (ii) if the registrar is satisfied that the value of the immovable property which has vested in any heir or legatee in terms of a will or through intestate succession would be equalled or exceeded by the costs involved in transferring or ceding it to the heir or legatee, and the heir or legatee has sold the property, transfer or cession thereof may, with the consent in writing of the heir or legatee, be passed by the executor in the estate of the deceased person direct to the purchaser;
 - (iii) if in the administration of the estate of a deceased person (including a fiduciary) any redistribution of the whole or any portion of the assets in such estate takes place among the heirs and legatees (including ascertained fideicommissary heirs and legatees) of the deceased, or between such heirs and legatees and the surviving spouse, the executor or trustee of such estate may transfer the land or cede the real rights therein direct to the persons entitled thereto in terms of such redistribution;

(Section 14(1)(b)(iii) substituted by section 6(a) of Act 14 of 1993)

- (iv) in a redistribution mentioned in proviso (iii) it shall be lawful to introduce movable property not forming part of the estate for the purpose of equalizing the division;
- (v) the provisions of proviso (iii) shall apply *mutatis mutandis* with reference to a redistribution of assets of the joint estate of spouses who were married in community of property and have been divorced or judicially separated, and with reference to a redistribution of assets of a partnership on dissolution of the partnership;
- (vi) if a fiduciary interest in land or in a real right terminates before transfer of the land or cession of the real right has been registered in favour of the fiduciary, it shall be competent to transfer the land or cede the real right direct to the fidei-commissary;
- (vii) if the right of any person to claim transfer of such land or cession of such real right from any other person has been vested in any third person in terms of any judgment or order of any court (including a magistrate's court), or in terms of a sale in execution held pursuant to any such judgment or order, transfer of such land or cession of such real right may be passed direct to such third person by the person against whom such right was exercisable.

(Section 14(1)(b)(vii) substituted by section 6(b) of Act 14 of 1993)

(Section 14(1)(b) amended by section 7 of Act 43 of 1957)

(Section 14(1)(b) amended by section 7 of Act 43 of 1962)

(Section 14(1)(b) substituted by section 6 of Act 87 of 1965)

- (2) In any transfer or cession in terms of any proviso to subsection (1)(b) there shall be paid the transfer duty which would have been payable had the property concerned been transferred or ceded to each person successively becoming entitled thereto.

(Section 14(2) substituted by section 6(c) of Act 14 of 1993)

15. Preparation of deeds by conveyancer.

Except in so far as may be otherwise provided in any other law, no deed of transfer, mortgage bond or certificate of title or any certificate of registration of whatever nature, mentioned in this Act, shall be attested, executed or registered by a registrar unless it has been prepared by a conveyancer.

(Section 15 substituted by section 4 of Act 170 of 1993)

(Section 15 substituted by Schedule 1 of Proc. R9 of 1997)

(Section 15 substituted by section 2 of Act 93 of 1998)

15A. Proof of certain facts in connection with deeds and documents by means of certain certificates.

- (1) A conveyancer who prepares a deed or other document for the purposes of registration or filing in a deeds registry, and who signs a prescribed certificate on such deed or document, accepts by virtue of such signing the responsibility, to the extent prescribed by regulation for the purposes of this section,

for the accuracy of those facts mentioned in such deed or document or which are relevant in connection with the registration or filing thereof, which are prescribed by regulation.

- (2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer –

- (a) who is prescribed by regulation; or
- (b) who is authorized by any other law to prepare a deed or other document for registration or filing in a deeds registry,

and who has in accordance with the regulations prepared a deed or other document for registration or filing in a deeds registry.

(Section 15A(2) substituted by section 7 of Act 14 of 1993)

- (3) A registrar shall accept, during the course of his examination of a deed or other document in accordance with the provisions of this Act, that the facts referred to in subsection (1) in connection with the registration or filing of a deed or other document in respect of which a certificate referred to in subsection (1) or (2) has been signed, have for the purposes of such examination been conclusively proved: Provided that the foregoing provisions of this subsection shall not derogate from the obligation of a registrar to give effect to any order of court or any other notification recorded in the deeds registry in terms of this Act or any other legal provision, and which affects the registration or filing of such deed or other document.

(Section 15A inserted by section 6 of Act 27 of 1982 with effect from 1 October 1983)

16. How real rights shall be transferred.

Save as otherwise provided in this Act or in any other law the ownership of land may be conveyed from one person to another only by means of a deed of transfer executed or attested by the registrar, and other real rights in land may be conveyed from one person to another only by means of a deed of cession attested by a notary public and registered by the registrar: Provided that notarial attestation shall not be necessary in respect of the conveyance of real rights acquired under a mortgage bond: Provided further that where the State acquires all the land held under any title deed, whether by way of expropriation or otherwise, or where a local authority by virtue of the provisions of any law acquires all the land held under a title deed by any other such authority, the registrar shall make such alterations and entries in his registers and such endorsements on any such title deed as may be necessary to register transfer to the State or such authority, as the case may be, of the property so acquired free of charge, and that the provisions of subsection (4)(a) of section 31 of this Act shall apply *mutatis mutandis* in respect of such a transfer by endorsement.

(Section 16 amended by section 4 of Act 80 of 1964 with effect from 1 September 1937)

(Section 16 substituted by section 7 of Act 87 of 1965)

(Second proviso to section 16 substituted by section 7 of Act 27 of 1982)

(Second proviso to section 16 substituted by section 4 of Act 62 of 1984)

16A. Registration of transfer of right of leasehold

When a right of leasehold which has under any provision of the Black Communities Development Act, 1984, been granted to any person, is registered in the name of a person, that right shall, subject to the provisions of the said Act, and of the regulations thereunder, be transferred in the prescribed manner by means of a deed of transfer executed or attested by the registrar and subject to the conditions of the grant, to another person: Provided that where the State is the transferor such transfer may be effected by means of a deed of grant.

(Section 16A inserted by section 5 of Act 62 of 1984 with effect from 1 July 1985)

(Section 16A substituted by section 1 of Act 24 of 1989)

16B.

(Section 16B inserted by section 30 of Act 74 of 1986)

(Section 16B repealed by section 8 of Act 14 of 1993)

16D. Registration of transfer of rights acquired in terms of or under Black Administration Act, 1927

Despite the repeal of the Black Administration Act, 1927 (Act No. 38 of 1927), by the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act No. 28 of 2005), and despite the other provisions of this Act and any other law, a right originally acquired in terms of or under the Black Administration Act, 1927, shall be transferred in accordance with the legislation which created that right.

(Section 16D inserted by section 2 of Act 5 of 2006)

17. Registration of immovable property in name of married persons

- (1) From the commencement of the Deeds Registries Amendment Act, 1987, immovable property, real rights in immovable property and notarial bonds which would upon transfer, cession or registration thereof form part of a joint estate shall be registered in the name of the husband and the wife, unless that transfer, cession or registration takes place only in the name of a partnership, and the husband or wife is involved therein only in the capacity of partner in that partnership.

(Section 17(1) substituted by section 1(a) of Act 75 of 1987)

- (2) Every deed or any other document lodged with a deeds registry for execution, registration or record, shall-

(Words preceding section 17(2)(a) substituted by section 4 of Act 12 of 2010)

- (a) state the full name and marital status of the person concerned;
- (b) where the marriage concerned is governed by the law in force in the Republic or any part thereof, state whether the marriage was contracted in or out of community of property or whether the

matrimonial property system is governed by customary law in terms of the Recognition of Customary Marriages Act, 1998;

(Section 17(2)(b) substituted by section 12(1) of Act 120 of 1998)

- (c) where the person concerned is married in community of property, state the full name of his spouse; and
 - (d) where the marriage concerned is governed by the law of any other country, state that the marriage is governed by the law of that country.
- (3) Where a marriage in community of property has been dissolved by the death of one of the spouses before property which on transfer or cession thereof would have formed part of the joint estate could be transferred or ceded, that property shall be transferred or ceded to the joint estate of the spouses, pending the administration thereof, and is, subject to the provisions of any disposition with regard to that property, deemed to be the joint property of the surviving spouse and of the estate of the deceased spouse.

(Section 17(3) amended by section 9(a) of Act 14 of 1993)

- (4) Where immovable property, a real right in immovable property, a bond or a notarial bond-
- (a) is registered in the name of a person who has married since the registration took place;
 - (b) is registered in the name of a person who on the date of the registration was married out of community of property or whose marriage was on that date governed by the law of another country, and whose marriage was subsequently dissolved by death or divorce;
 - (c) forms an asset in a joint estate and was registered in the name of the husband only; or
 - (d) is registered in the name of a person who on the date of the registration was a party to a marriage governed by the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998),

the registrar shall on the written application by the person concerned and on the submission of the deed in question and of proof of the relevant facts, endorse the change in status or make a note to the effect that the said person is a party to a marriage in community of property, as the case may be: Provided that where there are two or more mutually dependent deeds, all such deeds must be submitted for endorsement: Provided further that in the case of an order of court envisaged in section 7(9) of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998), the registrar shall, on submission of the relevant deed and court order and without the necessity for a written application, make the endorsement or note.

(Section 17(4) substituted by section 2 of Act 11 of 1996)

(Section 17(4) substituted by section 1 of Act 9 of 2003)

- (5) A transfer, cession or registration referred to in subsection (1) in the name of a husband and wife, shall not be deemed-

(a) in a case where agricultural land referred to in section 3 of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), is concerned, to constitute an act to which a provision of the said section 3 is applicable; and

(b)

(Section 17(5)(b) substituted by section 9(b) of Act 14 of 1993)

(Section 17(5)(b) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(Section 17(5) substituted by section 1(b) of Act 75 of 1987)

- (6) A person married in terms of a marriage the legal consequences of which are governed by the law of any other country, shall be assisted by his or her spouse in executing any deed or other document required or permitted to be registered in any deeds registry or required or permitted to be produced in connection with any such deed or document, unless the assistance of the spouse is in terms of this Act or on other grounds deemed by the registrar to be unnecessary.

(Section 17(6) substituted by section 1(c) of Act 75 of 1987)

(Section 17(6) substituted by section 1 of Act 132 of 1993)

(Section 17 amended by section 1 of Act 15 of 1953)

(Section 17 amended by section 1 of Act 37 of 1953)

(Section 17 amended by section 8 of Act 43 of 1957)

(Section 17 amended by section 8 of Act 43 of 1962)

(Section 17 amended by section 5 of Act 3 of 1972)

(Section 17 substituted by section 29 of Act 88 of 1984)

CHAPTER III

REGISTRATION OF LAND

Transfer of Land

18. Manner of dealing with State land

- (1) The ownership of unalienated State land may be transferred from the State only by a deed of grant issued under proper authority, and, except where otherwise provided in this Act or the regulations, or unless the land is represented on a general plan, the deed of grant must have a diagram of the land annexed thereto.

(Section 18(1) substituted by section 4(a) of Act 93 of 1998)

- (2) The ownership of land alienated from and reacquired by the State may be transferred from the State either by deed of grant or by deed of transfer issued or executed, as the case may be, under proper authority, but in either case the deed of grant or transfer shall contain a reference to the title deed by which the State held the land and to the title deed to which the diagram of the land is annexed and shall set forth the conditions upon which the land is alienated and the rights to the land reserved by the State on this alienation.
- (3) If any piece of unalienated State land has been surveyed and is represented on a diagram, the registrar concerned shall, upon written application by the Minister of Public Works or an officer of the State authorized by him or her, accompanied by the diagram of the land, enter particulars of the land in the appropriate registers and execute in the prescribed form and in accordance with the diagram, a certificate of registered State title thereof prepared by a conveyancer.
- (Section 18(3) substituted by section 6 of Act 3 of 1972)*
(Section 18(3) substituted by section 8 of Act 27 of 1982)
(Section 18(3) substituted by section 10 of Act 14 of 1993)
(Section 18(3) substituted by section 7 of Act 20 of 2024)
- (4) Transfer of the ownership of land held by the State under certificate of registered State title shall be effected by deed of grant issued under proper authority, but it shall not be necessary to annex a diagram of the land thereto: Provided that the grant shall contain a reference to the certificate and to the diagram annexed to the certificate.
- (5) No deed (other than a deed of grant conveying ownership) purporting to create or deal with or dispose of any real right in any piece of unalienated State land shall be capable of registration until a certificate of registered State title has been executed in respect of that piece of land.

19.

(Section 19 repealed by section 9 of Act 43 of 1957)

20. Form and manner of execution of deeds of transfer

Deeds of transfer shall be prepared in the forms prescribed by law or by regulation, and, save as in this Act or any other law provided or as ordered by the court, including a court with the necessary jurisdiction established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), in respect of deeds of transfer executed by the registrar, shall be executed in the presence of the registrar by the owner of the land described therein, or by a conveyancer authorized by power of attorney to act on behalf of the owner, and shall be attested by the registrar.

(Section 20 substituted by section 9 of Act 27 of 1982)

21. Transfer or cession from joint estate

In any deed of transfer or deed of cession lodged in a deeds registry and relating to an asset in a joint estate, the surviving spouse shall be joined in his or her personal capacity with the executor of the estate of the deceased spouse except-

- (a) where the executor is dealing only with the share of the deceased spouse; or
- (b) where the asset has been sold to pay the debts of the joint estate; or
- (c) where there has been a massing of the joint estate and the surviving spouse has adiated; or
- (d) where such transfer or cession is in favour of the surviving spouse; or
- (e) where the power of attorney to pass such transfer or cession has been signed by the surviving spouse in the capacity of executor.

(Section 21 amended by section 10 of Act 43 of 1957)

(Section 21 substituted by section 5 of Act 93 of 1998)

(Section 21 substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

22. Transfer of two or more pieces of land by one deed

- (1) Two or more persons each owning a different piece of land may not transfer those pieces of land to one or more persons by the same deed of transfer, unless such transfer is authorized by the provisions of a law or by an order of court.
- (2) Two or more pieces of land may by one deed be transferred by one person or by two or more persons holding such pieces of land in undivided shares, to one person or to two or more persons acquiring such pieces of land in undivided shares: Provided that each piece of land is described in a separate paragraph.
- (3) Two or more portions of a piece of land may by one deed be transferred by one person or by two or more persons holding the whole of such piece of land in undivided shares to one person or to two or more persons acquiring such portions in undivided shares: Provided that each portion is described in a separate paragraph in which reference is made to the diagram of that portion. The diagrams of all such portions shall be annexed to the deed.

23. Transfer of undivided shares in land by one deed

- (1) Land held by one person may be transferred by one deed from that person to two or more other persons in undivided shares.
- (2) Land held by two or more persons in undivided shares may be transferred by one deed from those persons to any other person, or to two or more other persons in undivided shares.

23bis.Transfer of shares in properties to more than one transferee in one deed.

Undivided shares in more than one piece of land may not be transferred to more than one transferee in the same deed if the shares appropriated to any one transferee are not the same in respect of each piece of land.

(Section 23bis inserted by section 8 of Act 87 of 1965)

24. Special provisions relating to transfer of undivided shares

- (1) No transfer of an undivided share in land which is intended or calculated to represent or purports to represent a defined portion of land shall be capable of being registered.
- (2) If a piece of land is owned by two or more persons in undivided shares and one or more of such persons acquires the share or shares of the remaining owner or owners in a defined portion of that piece of land, all the owners jointly, including the owner or owners acquiring the share or shares, may transfer such portion to the person or persons acquiring it.

24bis.Transfer from firm or partnership.

- (1) If land or a real right registered in the name of a firm or partnership is acquired by any member or partner of such firm or partnership in his individual capacity, transfer or cession thereof shall be given by all the members or partners constituting such firm or partnership: Provided that in any other case land or real rights owned by a firm or partnership may be dealt with by such firm or partnership as provided in the regulations.
- (2) If on dissolution of a firm or partnership any land or real right owned by such firm or partnership is awarded to all the members or partners, the registrar shall on written application signed by all the members or partners constituting such firm or partnership, accompanied by proof of dissolution and such other documents as may be required or prescribed, endorse on the title deed of the land or real right that such land or real right vests in the individuals therein named, and thereupon such persons shall be entitled to deal therewith as if they had taken formal transfer or cession in their names of their shares in such land or real right.
- (3) If the land or real right referred to in sub-section (2) is hypothecated under a registered mortgage bond, the endorsement contemplated in the said sub-section shall not be made unless such bond is cancelled or the holder thereof consents in writing (in duplicate) to the substitution of the individual members or partners as debtors under the bond: Provided that such substitution shall not be allowed unless –
 - (i) the individual members or partners apply in writing to be substituted, jointly and severally, as debtors under the bond; such application to be in duplicate and witnessed; and

- (ii) the individual members or partners are competent to mortgage the land; and
- (iii) where applicable, the individual members or partners renounce in the said application the exception *de duobus vel pluribus reis debendi*; and
- (iv)

(Section 24bis(3)(iv) deleted by section 3 of Act 11 of 1996)

(Section 24bis(3) added by section 9 of Act 87 of 1965)

(Section 24bis inserted by section 9 of Act 43 of 1962)

25. Transfer to unascertained children

- (1) If land or a real right or a bond is donated or bequeathed to the children born or to be born of any person or of any marriage, or is otherwise acquired on behalf of such children, transfer of the land or cession of the real right or bond on behalf of such children may be passed in the case of children born or to be born of a person, to that person in trust for such children, and in the case of children born or to be born of a marriage, to the person who would be the guardian of those children during their minority, in trust for such children.

(Section 25(1) substituted by section 10(a) of Act 43 of 1962)

- (2) If land or a real right or a bond is donated to the children born or to be born of any person or of any marriage, the person to whom transfer or cession may be passed in terms of sub-section (1), may for the purposes of such transfer or cession, accept the donation.

(Section 25(2) amended by section 10(b) of Act 43 of 1962)

- (3) When the identity of all such children has been established the registrar shall make an endorsement on the title deed or bond setting out their names, whereupon the title deed or bond shall be deemed to be to and in favour of such children in the same manner as if the transfer or cession had originally been passed to them by name notwithstanding the provisions of section 17(1).

(Section 25(3) amended by section 10(c) of Act 43 of 1962)

(Section 25(3) amended by section 30 of Act 88 of 1984)

26. Deeds of partition transfer

- (1) If two or more persons who own in undivided shares the whole of any piece or pieces of land, have agreed to partition that land, the registrar shall, on production to him of a power of attorney by such persons authorizing the passing of deeds of partition transfer of such land in accordance with the agreement of partition, which agreement shall be embodied in the power of attorney or annexed thereto, and on compliance with the further provisions of this section, attest deeds of partition transfer which

shall be as nearly as practicable in the prescribed form, conveying to the respective owners the land or shares therein awarded to them under the said agreement.

(1)*bis*

(Section 26(1)bis inserted by section 11 of Act 43 of 1962)

(Section 26(1)bis repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(2) In the power of attorney or agreement of partition referred to in sub-section (1) there shall be described-

- (a) the land to be partitioned;
- (b) the share or shares registered in the name of each joint owner;
- (c) the land or share therein awarded to each of the owners;
- (d) the conditions (if any) affecting any land or share therein so awarded; and
- (e) the consideration (if any) given for the purpose of equalizing the partition.

(3) There shall also be produced to the registrar the title deeds of the land to be partitioned and the necessary diagrams: Provided that no new diagram need be produced in respect of the whole or the remaining extent of any one of the pieces of land to be partitioned.

(4) Subject to the provisions of this section, the provisions of sections twenty, twenty-one, twenty-two and twenty-three shall *mutatis mutandis* apply in respect of deeds of partition transfer.

(5) Any deed of partition transfer attested under sub-section (1) shall in respect of the land therein described take the place of the deed or deeds by which it was previously held, but the partition transfer shall not vary or affect the conditions of tenure of the said land or any other conditions affecting the said land generally, save in so far as such last-mentioned conditions may be varied, defined or limited by the agreement of partition or the consents of interested parties.

(6) The provisions of this section shall *mutatis mutandis* apply to a partition of land ordered by the court or determined by an award of arbitrators.

(7) The provisions of this section shall also apply to partitions of land registered in different deeds registries.

(Section 26(7) added by section 11 of Act 43 of 1957)

(Section 26(7) substituted by section 10 of Act 87 of 1965)

27. Requisites where share in land partitioned is mortgaged

- (1) If the share or shares owned by any of the parties to a partition is mortgaged, the partition transfers shall not be attested unless the bond is produced to the registrar together with the written consent of the legal holder of the bond, to the partition and to the substitution of the land awarded on partition to the mortgagor for the share or shares mortgaged.
- (2) In registering the transfer the registrar shall-
 - (a) endorse on the bond that the land awarded to the mortgagor has been substituted for the share or shares mortgaged;
 - (b) make an entry of the substitution in the registers; and
 - (c) endorse on the transfer that the land described therein is, in accordance with this section, mortgaged by the bond.
- (3) If only a fraction of the share or shares owned by any of the parties to a partition is mortgaged, the substitution referred to in this section shall only take place in respect of the fraction so mortgaged, if from the agreement of partition or from other evidence it appears that a defined portion or share therein has been separately awarded in respect of such mortgaged fraction.
- (4) Where more than one property is partitioned by the same partition and the whole of any one or more of the properties affected is awarded to an owner, such property or properties may be substituted under that owner's bond, if the bond is over his share in all the properties partitioned.

(Section 27(4) added by section 12 of Act 43 of 1957)

28. Requisites where share in land partitioned is subject to other rights

- (1) If the share or shares owned by any of the parties to a partition appear from the title deeds of the land partitioned to be subject to a lease, personal servitude or other real right, the written consent of the holder thereof to the partition and allocation of the lease, servitude or other such real right, together with the deed, if any, by which the lease, servitude or real right is held, shall be produced to the registrar.

(Section 28(1) amended by section 12(a) of Act 43 of 1962)

(Section 28(1) substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

- (2) The land described in the deeds of partition transfer shall be made subject to the lease, servitude or real right to the same extent as the share or shares for which it is substituted, and the deed, if any, by which the lease, servitude or real right is held, shall be endorsed by the registrar in the same manner as the bond mentioned in section *twenty-seven*.
- (3) If there exists any bond by which the lease, servitude or real right is itself mortgaged, that bond shall also be produced to the registrar, together with the written consent of the legal holder thereof to the partition and allocation of the lease, servitude or such other real right, and the registrar shall make the

endorsements and entries mentioned in section *twenty-seven* on the bond, the deeds concerned and in the registers.

(Section 28(3) amended by section 12(b) of Act 43 of 1962)

29. Effect of compliance with sections 27 and 28.

Upon completion of the endorsements and entries mentioned in sections twenty-seven and twenty-eight the land described in the deeds of partition transfer, and the lease, personal servitude or real right (if any) shall be deemed to be as fully and effectually mortgaged as if they had been hypothecated by the bond at the time of its execution and the said land shall be deemed to be as fully and effectually encumbered by the said lease, personal servitude or real right as if it had been encumbered thereby at the time of the registration thereof.

30. Partition of land subject to *fidei commissum*

- (1) Any piece of land the whole or any share of which is subject to a *fidei commissum* may, where partition has not been prohibited, be partitioned with the written consent of the *fidei commissary* heirs or successors if they are ascertained and are majors and otherwise competent; if they are ascertained but any of them are minors, the consent of the Master shall be produced in respect of the minors; if they are ascertained but any of them have been declared insolvent, or if they are under curatorship or otherwise under disability the consent of their trustees or curators or other legal representatives shall be produced on their behalf; if they are not ascertained or if they cannot be found, proof shall be produced to the satisfaction of the registrar that the land awarded in the agreement of partition to the owner of any share subject to the *fidei commissum* is an equivalent of that share.
- (2) The land so awarded shall in the deed of partition transfer be made subject to the *fidei commissum* in the same manner as the corresponding share was in its title deed made subject thereto before partition.

31. Transfer of expropriated land or land vested by statute

- (1) Whenever any land has, under the authority of any law, been expropriated by, and whenever the ownership of any land has by statute been vested in, the State, any public or local authority or any corporate body or any association of persons, the registrar shall, upon lodgment with him of a deed of transfer in the prescribed form prepared by a conveyancer in favour of the transferee, execute *[sic]* the same, and if the land is hypothecated, he shall endorse the fact of such transfer on the registry duplicate of the bond, and if the original bond is at any time lodged in his office for any purpose except cancellation, he shall make a similar endorsement thereon: Provided that no such transfer shall prejudice any claim to compensation which any owner or other person may have in respect of the change of ownership of such land: Provided further that no such deed of transfer shall be registered in favour of the State if transfer of the land has already been registered in favour of the State by an endorsement as contemplated in the second proviso to section 16.

(Section 31(1) substituted by section 3(a) of Act 61 of 1969 with effect from 28 May 1969)

(Second proviso to section 31(1) added by section 10(a) of Act 27 of 1982)

(2)

- (a) The transferee shall produce the title deed of such land to the registrar together with the aforesaid deed of transfer, and the registrar shall thereupon endorse the transfer on such title deed.
- (b) Failing the production of such title deed, the transferee shall produce to the registrar an affidavit to the satisfaction of the registrar that he has been unable to obtain possession of the title deed and the registrar shall thereupon endorse such transfer on the registry duplicate of such title deed, and if the original title deed is at any time lodged in his office for any purpose, he shall make a similar endorsement thereon.

(Section 31(2) substituted by section 3(b) of Act 61 of 1969 with effect from 28 May 1969)

(3)

.....

(Section 31(3) deleted by section 3(c) of Act 61 of 1969 with effect from 28 May 1969)

(4)

- (a) The registrar shall not execute the said deed of transfer unless a certificate has been furnished to him by the transferee referred to in sub-section (1), to the effect that the provisions of any law in connection with the change of ownership in the land in consequence of expropriation or vesting, have been complied with.
- (b) The said deed of transfer shall be registered subject to all existing conditions affecting the land in question which have not been expropriated or vested in the transferee.

- (5) No deed by the expropriating authority purporting to transfer such land or to create or deal with any real right therein shall be registered in a deeds registry until transfer thereof has been passed in accordance with sub-section (1), or the relevant title deed has been endorsed in favour of the State as contemplated in the second proviso to section 16.

(Section 31(5) substituted by section 10(b) of Act 27 of 1982)

(6)

- (a) Immediately after any land has been expropriated the expropriating authority shall lodge with the registrar a certified copy of the notice of expropriation, two copies of the relevant expropriation plan of the land in question, and a certificate describing the land and stating the name, number and administrative district thereof, as well as the full names and surname of the registered owner and the number (consisting of the serial and year number) of the title deed, and the registrar shall cause a note of the expropriation to be made in his registers, and if at any time the original of the title deed is lodged in his registry for any purpose, or application is made for the issue of a certified copy thereof, he shall cause an appropriate note to be endorsed thereon as well as on the office copy thereof and a copy of the expropriation plan to be annexed thereto as well as to the office

copy thereof: Provided that the afore-mentioned expropriation plans shall be dispensed with where the whole of a piece of land has been expropriated.

(Words preceding the proviso to section 31(6)(a) substituted by section 6 of Act 62 of 1984)

(Section 31(6)(a) substituted by section 26 of Act 45 of 1992)

- (b) The existence of any endorsement referred to in paragraph (a), shall not debar the registered owner of the land in question from transferring or otherwise dealing with that land and upon registration of a transfer deed in favour of the transferee in pursuance of the expropriation, any such endorsement shall lapse: Provided that where the entire extent of a piece of land recognized as a separate entity in a deeds registry has been expropriated, the registered owner of the said land shall be debarred from transferring it or otherwise dealing therewith except to effect registration of a transfer deed in favour of the transferee in pursuance of the expropriation.
- (7) Where any land has been expropriated and formal transfer of such land to the transferee has not been effected, the registrar shall, on written application by the transferee and the owner, cancel any endorsement made in connection with the expropriation in his registers or on the title deed of the land, and thereupon the land so expropriated shall vest in such owner.

(8)

(Section 31(8) repealed by section 95 of Act 63 of 1975)

(Section 31 amended by section 13 of Act 43 of 1957)

(Section 31 amended by section 13 of Act 43 of 1962)

(Section 31 substituted by section 11 of Act 87 of 1965)

32. Registration of expropriated servitudes or servitudes vested by statute

- (1) Whenever any right of servitude over any land has under the authority of any law been expropriated by, or has by statute been vested in, the State, any public or local authority or any corporate body or any association of persons, the registrar shall, upon lodgment with him of a deed of cession in the prescribed form prepared by a conveyancer in favour of the cessionary, execute and register such deed, and if the land is hypothecated, endorse the fact of such cession on the registry duplicate of the bond, and if the original bond is at any time lodged in his office for any purpose except cancellation, he shall make a similar endorsement thereon: Provided that no such cession shall prejudice any claim to compensation which any owner or other person may have as a result of the expropriation or vesting of such servitude.

(Section 32(1) substituted by section 4(a) of Act 61 of 1969 with effect from 28 May 1969)

(Section 32(1) amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(2)

- (a) The cessionary shall produce the title deed of the land to the registrar together with the aforesaid deed of cession and the registrar shall thereupon endorse the cession on such title deed.

(Section 32(2)(a) amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

- (b) Failing the production of such title deed, the cessionary shall produce to the registrar an affidavit to the satisfaction of the registrar that he has been unable to obtain possession of such title deed and the registrar shall thereupon endorse such cession on the registry duplicate of such title deed, and if the original title deed is at any time lodged in his office for any purpose, he shall make a similar endorsement thereon.

(Section 32(2) substituted by section 4(b) of Act 61 of 1969 with effect from 28 May 1969)

- (3)

(Section 32(3) deleted by section 4(c) of Act 61 of 1969 with effect from 28 May 1969)

- (4) The registrar shall not register the said deed unless a certificate has been furnished to him by the cessionary to the effect that the provisions of any law in connection with the expropriation or vesting of such servitude have been complied with, and if it appears from the said certificate that such certificate has been expropriated or vested subject to any existing conditions, the deed shall be registered subject to those conditions.

(Section 32(4) substituted by section 4(d) of Act 61 of 1969 with effect from 28 May 1969)

(Section 32(4) amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

- (5) Immediately after any right of servitude over any land has been expropriated, the expropriating authority shall lodge with the registrar a certified copy of the notice of expropriation, two copies of the relevant expropriation plan of the servitude in question and a certificate describing the land and stating the name, number and administrative district thereof, as well as the full names and surname of the registered owner and the number (consisting of the serial and year number) of the title deed, and the registrar shall cause a note of the expropriation to be made in his or her registers, and if at any time the original of the title deed is lodged in his or her registry for any purpose or application is made for the issue of a certified copy of such title deed, the registrar shall cause an appropriate note to be endorsed thereon as well as on the office copy thereof and a copy of the expropriation plan to be annexed thereto as well as to the office copy thereof.

(Section 32(5) substituted by section 10 of Act 29 of 1974)

(Section 32(5) substituted by section 7 of Act 62 of 1984)

(Section 32(5) substituted by section 27 of Act 45 of 1992)

(Section 32(5) substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

- (5A) Whenever any right of servitude over land has been expropriated and formal cession of such right of servitude to the cessionary has not been effected, the registrar shall, on written application by the cessionary and the owner of the land, cancel any note of the expropriation in his or her registers or endorsement on the title deed of the land and thereupon the expropriated right of servitude shall vest in such owner.

(Section 32(5A) inserted by section 9(a) of Act 62 of 1973)

(Section 32(5A) substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(6)

(Section 32(6) substituted by section 9(b) of Act 62 of 1973)

(Section 32(6) repealed by section 95 of Act 63 of 1975)

(Section 32 amended by section 14 of Act 43 of 1957)

(Section 32 amended by section 14 of Act 43 of 1962)

(Section 32 substituted by section 12 of Act 87 of 1965)

33. Registration of title by other than the ordinary procedure

(1) Any person who has acquired in any manner, other than by expropriation, the right to the ownership of immovable property registered in the name of any other person and who is unable to procure registration thereof in his name in the usual manner and according to the sequence of the successive transactions or successions in pursuance of which the right to the ownership of such property has devolved upon him, may apply to the court by petition for an order authorizing the registration in his name of such property.

(2)

(Section 33(2) deleted by section 11 of Act 14 of 1993)

(3) Every petition to the court under the provisions of this section shall be lodged with the registrar of the said court and the allegations contained in such petition shall be supported by sworn declarations and all available documentary evidence which the applicant may be able to adduce.

(4) Every such petition shall be laid before one of the judges in chambers, who shall make such order thereon as to him shall seem fit, and any such judge may order that any matter arising upon any such petition shall be argued before and determined by the full court.

(5) The court considering any petition for registration of title, may, if such court shall deem it expedient to do so, grant a rule *nisi* setting forth the description of the immovable property mentioned in such petition, and calling upon all persons claiming to have any right or title to such property to appear and establish their claims to the same upon a day to be named in the rule, and may give directions as to the mode of service or publication of such rule.

(6) Upon the return day of any such rule granted as aforesaid, and no cause being shown to the contrary, the court may order the registrar of deeds to register the property mentioned in such order as the property of the person therein named, subject to such terms and conditions as may be therein mentioned.

(7) In case any person should appear to show cause against any rule nisi granted as aforesaid, the court may, if it shall see fit to do so, and without the issue of any summons, require any issue of fact to be tried upon pleadings or make such order as will determine the matter in controversy.

- (8) Subject to the terms of any order made under this section any deed of transfer passed in pursuance of such order shall be passed subject to every condition, servitude, bond or other encumbrance to which, according to the records of the deeds registry, the property to which the application relates, is subject, and the registrar shall, in connection with such condition, servitude, bond or other encumbrance, make the usual and proper entries and endorsements upon or in respect of such deed of transfer in his registry, before such deed is delivered to the applicant.
- (9) The registration of immovable property in the name of any person in pursuance of an order made under this section shall have the effect of vesting such person with a title to such property which shall be liable to be annulled, limited or altered on every ground on which the title of such person to such property would have been liable to be annulled, limited or altered if such property had been transferred to such person in the ordinary course.
- (10) If in pursuance of any order made under this section the registrar of deeds registers any property in the name of any person, such person shall be liable to pay such taxes, duties and fees of office in respect of such registration as he would have been liable to pay if such property had been transferred to him in the usual manner directly from the last registered owner thereof, but shall not be liable to pay any tax, duty, quitrent or interest thereon which such owner or any intermediate holder of the right to such property may have become liable to pay, unless he shall by agreement have bound himself to pay such tax, duty, quitrent or interest, or unless the delay in obtaining the registration in his name was due to the neglect or default of himself or his agent: Provided that any person who has become liable to pay any tax, duty, quitrent or interest in respect of any property shall continue to be so liable notwithstanding that such property has, in pursuance of an order made under this section, been registered in the name of another person.
- (11) Upon production to the registrar of deeds of any order made under this section and of a certificate by the proper officer as to the payment of the transfer duty, if any, which the person named in the order is liable to pay, and on compliance with any other requirements which have under this Act to be complied with, the registrar shall register such property in accordance with the said order, by executing a deed of transfer thereof in the prescribed form in favour of the person named in the order: Provided that it shall not be necessary to produce the title deed of the property or a certified copy thereof, if an affidavit by the transferee is produced that he has been unable to obtain possession of such title deed.
- (12) The provisions of this section shall be in addition to and not in substitution for the provisions of any other law.

(Section 33(11) substituted by section 13 of Act 87 of 1965)

(Section 33 amended by section 15 of Act 43 of 1957)

(Section 33 substituted by section 15 of Act 43 of 1962)

Substituted Title Deeds.

34. Certificate of registered title of undivided share

- (1) Any person who is the joint owner of a piece of land, the whole of or shares in which is or are held by such person and others under one title deed, may, subject to the provisions of section *thirty-seven*, obtain a certificate of registered title of his or her undivided share in such land, and no transfer of a fraction only of his or her undivided share or hypothecation or lease of the whole or any fraction of his or her undivided share in the land or real right thereover, shall be registered in a deeds registry unless a certificate of registered title of such undivided share is produced to the registrar: Provided that all the joint owners so holding under one title deed may together, transfer an undivided share in the land or a fraction of the share held under such deed or hypothecate or effect the registration of a lease of the whole of such land or share or register a real right thereover without the production of such a certificate: Provided further that such a certificate shall not be necessary where a joint owner disposes of the whole of his or her share by deeds of transfer to be registered simultaneously.

(Section 34(1) substituted by section 14 of Act 87 of 1965)

(Section 34(1) substituted by section 8 of Act 20 of 2024)

- (1A) The provisions of subsection (1) shall apply, with the necessary changes, to any person who is the owner of the whole of or a share in a piece of land and who wishes to obtain a certificate of registered title of any fraction of his or her undivided share in such land.

(Section 34(1A) inserted by section 5 of Act 12 of 2010)

- (2) If the title deed under which land or shares therein is held in joint ownership is lost or destroyed any joint owner may, upon compliance with the prescribed requirements, obtain a certificate of registered title in respect of his share in the land without obtaining a certified copy of the deed which has been lost or destroyed.
- (3) The provisions of sub-sections (1) and (2) shall apply also where two or more pieces of land or shares therein are held in joint ownership by the same title deed: Provided that all the pieces of land or the shares therein shall be included in the certificate of registered title and shall be described in separate paragraphs.

35. Certificate of registered title of aggregate share.

Any person who is, by virtue of more than one title deed, the owner of undivided shares in one or more than one piece of land may, subject to the provisions of section *thirty-seven*, obtain a certificate of registered title in respect of his aggregate share in the land: Provided that if there are two or more pieces of land the several pieces of land or shares therein shall be described in separate paragraphs.

36. Certificate of registered title of one or more properties held under one deed.

Any person who holds two or more pieces of land, or undivided shares therein, by one title deed may, subject to the provisions of section *thirty-seven*, obtain a certificate of registered title in respect of one

or more of such pieces of land or of the undivided share or shares held by him therein: Provided that at least one of the pieces of land or the share therein held by such deed remains held thereby.

37. Conditions governing the issue of certificates of registered title

- (1) A certificate of registered title mentioned in section *thirty-four*, *thirty-five* or *thirty-six* may be obtained upon written application by the owner to the registrar accompanied, save as provided in sub-section (2) of section *thirty-four*, by the title deed of the land and shall be as nearly as practicable in the prescribed form.
- (2) If the property concerned is subject to a registered mortgage bond, that bond shall be produced to the registrar by the holder thereof, upon the request and at the expense of the applicant for the certificate of registered title.

(Section 37(2) substituted by section 16(a) of Act 43 of 1957)

- (3) Before issuing any such certificate the registrar shall cause to be made upon the title deed or deeds in question and the registry duplicates thereof or in the case provided in subsection (2) of section *thirty-four*, upon the registry duplicate only, and upon the mortgage bond (if any) an endorsement that a certificate of registered title has, in accordance with the appropriate section of this Act, been substituted for the said title deed or deeds in respect of the property in question. The registrar shall further make entries in the registers of the issue of the certificate and shall, if the property is mortgaged, endorse that fact upon the certificate.

(Section 37(3) amended by section 16(b) of Act 43 of 1957)

- (4) Any such certificate when issued shall in respect of the property described therein take the place of the title deed or deeds by which such property was previously held and the issue of the certificate shall not in any manner affect any right or obligation in connection with such property.

38. Certificate of registered title taking place of lost, destroyed, incomplete or unserviceable deed

(Heading substituted by section 2(a) of Act 34 of 2013)

- (1) If the title deed of any land has been lost, destroyed, incomplete or unserviceable, and the registry duplicate of such title deed has also been lost, destroyed, incomplete or unserviceable, the registrar shall, on written application by the owner of the land, accompanied by a diagram of the land, if no diagram thereof is filed in the registry or in the office of the surveyor-general concerned, execute a certificate of registered title in respect of such land in accordance with the diagram of the land.

(Section 38(1) substituted by section 2(b) of Act 34 of 2013)

- (2) Before issuing the certificate the registrar shall, at the expense of the applicant, publish in the prescribed form notice of intention to issue the certificate in two consecutive ordinary issues of the *Gazette* and in two consecutive issues of a newspaper printed in the division, district or county in which the land is

situate, or if there is no such newspaper then in any newspaper circulating in such division, district or county.

- (3) A draft of the proposed certificate and a copy of the diagram, if any, accompanying the application, shall be open for inspection in the registry free of charge by any interested person, for a period of six weeks after the date of the first publication of the notice in the *Gazette*, during which period any person interested may object to the issue of the certificate.
- (4) Any person who has lodged with the registrar an objection to the issue of the certificate may, in default of any arrangement between him and the applicant, apply to the court within one month after the last day upon which an objection may be lodged, for an order prohibiting the registrar from issuing the certificate, and the court may make such order on the application as it may deem fit.
- (5) A certificate of registered title issued under this section shall be as nearly as practicable in the prescribed form and shall take the place of the lost, destroyed, incomplete or unserviceable title deed and shall embody or refer to every condition, servitude, bond, lease or other encumbrance which according to the records of the registry was embodied or referred to in the lost, destroyed, incomplete or unserviceable title deed or in any endorsement thereon.

(Section 38(5) substituted by section 2(c) of Act 34 of 2013)

39. Certificate of registered title to correct error in registration.

- (1) If by reason of an error the same land has been registered in the names of different persons, the registrar may, upon transfer of the land being given to one of them by the other or others, issue to the person to whom transfer is so given a certificate of registered title of the land held by him under the various title deeds.
- (2) Any person who is the registered owner of any one or more defined portions of land under a registered deed reflecting conditions or servitudes which have lapsed by merger duly noted or which have been cancelled, may apply for the issue to him of a certificate of registered title in respect of such land free of such conditions or servitudes.

(Section 39(2) inserted by section 17 of Act 43 of 1957)

- (3) The certificate of registered title referred to in sub-section (2) shall be in the form prescribed and shall supersede the title under which the land was previously held.

(Section 39(3) inserted by section 17 of Act 43 of 1957)

- (4) The provisions of section *thirty-seven* shall *mutatis mutandis* apply in respect of the issue of such certificate.

(Section 39(2) renumbered to 39(4) by section 17 of Act 43 of 1957)

40. Certificate of consolidated or amended title of two or more pieces of land.

- (1) If a diagram has been framed and approved under the provisions of the Land Survey Act, 1997, and such diagram represents two or more pieces of land which are -

(Words preceding section 40(1)(a) amended by section 18(a) of Act 43 of 1957)

(Words preceding section 40(1)(a) amended by section 6(a) of Act 93 of 1998)

- (a) contiguous to each other;
- (b) owned by the same person or by two or more persons in the same undivided shares in each such piece of land;
- (c)
(Section 40(1)(c) deleted by section 18(b) of Act 43 of 1957)
- (d) registered in the same property register;
(Section 40(1)(d) amended by section 6(b) of Act 93 of 1998)
- (e) situated in the same administrative district; and
(Section 40(1)(e) amended by section 16 of Act 43 of 1962)
(Section 40(1)(e) substituted by section 6(c) of Act 93 of 1998)
- (f) situated in the same province,
(Section 40(1)(f) added by section 6(d) of Act 93 of 1998)

the title deed or deeds of the said pieces of land may be superseded by a certificate of consolidated title issued by the registrar in the prescribed form, provided the requirements of this section are met: Provided that if the diagram was approved before the commencement of the Deeds Registries Amendment Act, 1998, the requirement contained in paragraph (f) shall be disregarded.

(Words following section 40(1)(f) substituted by section 6(e) of Act 93 of 1998)

- (2)
(Section 40(2) deleted by section 18(c) of Act 43 of 1957)
- (3) Every such certificate shall be in accordance with the new diagram and shall be issued on written application by the owner or owners of the pieces of land in question accompanied by the title deed or deeds thereof and any bond thereon, together with the written consent of the holder of the bond.
(Section 40(3) substituted by section 18(d) of Act 43 of 1957)
- (4) In registering the certificate, the registrar shall endorse on the title deed or deeds that they have, in respect of the land described in the certificate, been superseded by the certificate, and on the certificate that the land therein described or the share thereof referred to in such endorsement, is mortgaged by such bond and shall make such endorsements on the bond and such entries in the registers as shall

clearly indicate that the land is now owned by virtue of the certificate and that the land or such share thereof is subject to such bond.

(Section 40(4) substituted by section 18(e) of Act 43 of 1957)

(5)

(a) If a portion only of the land represented on the new diagram is mortgaged, a certificate may not be issued unless the bond is cancelled: Provided that on the written application of the owner and with the consent of the mortgagee, all the land included in the new diagram may be substituted for the land originally mortgaged under the bond.

(b) If different portions of the land represented on the new diagram are mortgaged under different bonds, the certificate may not be issued unless the bonds are cancelled.

(Section 40(5) substituted by section 18(f) of Act 43 of 1957)

(6)

(a) If portion only of the said land is subject to any registered deed of lease or other registered deed other than a bond, whereby any real right in the land is held by any other person, the certificate shall not be issued unless a diagram of such portion is already annexed to the said registered deed, or, if no such diagram is so annexed, unless a diagram in duplicate (or triplicate if required by the registrar) of such portion is produced: Provided that it shall not be necessary to produce a diagram of such portion if the diagram of the consolidated land shows that portion by dotted lines or in such other way as to identify it.

(Section 40(6)(a) amended by section 18(g) of Act 43 of 1957)

(b) The said diagram shall be annexed to the registered deed aforesaid and the registry duplicate thereof, and shall be mentioned in any endorsement made on or reference made in the certificate concerning such registered deed.

(7)

(Section 40(7) deleted by section 18(h) of Act 43 of 1957)

(8) No diagram representing a combination of portions of two or more pieces of land shall be accepted in a deeds registry for purposes of transfer until a certificate of consolidated title has been issued for the land represented on such diagram.

(Section 40(8) amended by section 18(i) of Act 43 of 1957)

(9) More than one combination of portions of two or more pieces of land, each of which combinations is represented on a separate diagram, may be included in one certificate of consolidated title: Provided that each combination is described in a separate paragraph therein.

(Section 40(9) amended by section 18(i) of Act 43 of 1957)

41.

(Section 41 amended by section 15 of Act 87 of 1965)

(Section 41 repealed by section 11 of Act 27 of 1982)

42. Certificate of uniform title

(1) If the owner of two or more pieces of land which are-

- (a) contiguous to each other;
- (b) situate in the same administrative district;
- (c) registered in the same property register; and
- (d) held on different conditions of tenure, or subject to different rights reserved in favour of the State,

desires to consolidate his title in respect of those pieces of land on uniform conditions of tenure or subject to the reservation of uniform rights in favour of the State, the title deeds of the said pieces of land may, with the written consent of the Minister of Public Works and on compliance with the provisions of this section, be superseded by a certificate of uniform title issued by the registrar, in the prescribed form, subject to such uniform conditions of tenure or to the reservation of such uniform rights in favour of the State, as are set forth in such written consent.

(Words following upon section 42(2)(d) substituted by section 12(a) of Act 14 of 1993)

(Section 42(1) amended by section 17 of Act 43 of 1962)

(Section 42(1) substituted by section 7(a) of Act 3 of 1972)

(Section 42(1) amended by section 12 of Act 27 of 1982)

(2) The provisions of sub-sections (3) to (6) inclusive of section *forty* shall *mutatis mutandis* apply in respect of such certificate.

(3) The Minister of Public Works may agree with the owner as to the aforesaid uniform conditions of tenure or uniform rights in favour of the State, and may consent to the issue of a certificate of uniform title.

(Section 42(3) substituted by section 7(b) of Act 3 of 1972)

(Section 42(3) amended by section 12 of Act 27 of 1982)

(Section 42(3) substituted by section 12(b) of Act 14 of 1993)

(4) If the said land is subject to any bond or if the said land or any portion thereof is subject to any registered deed of lease or other registered deed whereby any real right in the land is held by any other person, there shall be produced to the registrar the written consent of the holder of any such bond, lease or right to the issue of the certificate of uniform title and to the uniform conditions of tenure or uniform rights in favour of the State, which may have been agreed upon.

- (5) The provisions of this section shall *mutatis mutandis* apply in respect of land comprising portions which are held on different conditions of tenure or subject to different rights reserved in favour of the State, and the title to which has been consolidated prior to the commencement of this Act.

43. Certificate of registered title of portion of a piece of land

- (1) If a defined portion of a piece of land has been surveyed and a diagram thereof has been approved by the surveyor-general concerned, the registrar may on written application by the owner of the land accompanied by the diagram of such portion, the title deed of the land, any bond thereon and the written consent of the holder of any such bond, issue a certificate of registered title in respect of such portion, as nearly as practicable in the prescribed form.

(Section 43(1) amended by section 19(a) of Act 43 of 1957)

- (2) In registering the certificate the registrar shall endorse on the title deed that it has been superseded by the certificate in respect of the land described in the certificate, and on the certificate that the land described therein is mortgaged by the bond, and shall make such endorsements on the bond and such entries in the registers as shall clearly indicate that the land is now owned by virtue of the certificate and is subject to such bond.

(Section 43(2) amended by section 19(b) of Act 43 of 1957)

- (3) The provisions of this section shall also apply where two or more defined portions of a piece of land have been surveyed and the diagrams thereof approved: Provided that each of such portions shall be described in a separate paragraph in the certificate.

- (4) No defined portion of a piece of land shall be mortgaged until the owner thereof has obtained a certificate of registered title in respect of such portion in accordance with the provisions of this section.

- (5)
- (a) Save in the case of a transfer of a whole erf, no owner of a township or settlement in whose title deed the individual erven are not separately described, shall deal separately in any way with an individual erf in such township or settlement or any portion thereof or share therein until he has obtained a certificate of registered title of such erf in the prescribed form.

- (b)

(Section 43(5)(b) deleted by section 4 of Act 11 of 1996)

(Section 43(5) added by section 19(c) of Act 43 of 1957)

43A. Certificate of registered title in respect of land previously held under registered sectional title.

- (1) In the event of land reverting to the land register under the provisions of the Sectional Titles Act, 1986 (Act No. 95 of 1986), without revival of the developer's title deed in terms of the said Act, the registrar

shall issue a certificate of registered title in the prescribed form in respect of such land in substitution of the certificates of registered sectional titles under which the land was held prior to such reversion: Provided that where the land which reverts to the land register forms a portion only of the land previously registered in the land register, a diagram thereof shall be annexed to the certificate of registered title.

(Words preceding the proviso to section 43A(1) substituted by section 13 of Act 14 of 1993)

- (2) The Registrar shall make all the necessary entries in his registers and records, and endorsements on the relevant registered deeds and other documents, in order to give effect to the reversion of the land to the land register in terms of subsection (1).

(Section 43A inserted by section 13 of Act 27 of 1982)

Change of title by endorsement.

44. Rectification of title by endorsement.

- (1) If rectification of title is required in respect of any one piece of land in consequence of a survey or re-survey of such land or of the correction of any error in the diagram thereof under the Land Survey Act, 1997, the registrar may, on written application by the owner of the land accompanied by the title deed and the new or the corrected diagram thereof, any bond thereon and any registered deed of lease or other registered deed whereby any real right therein is held by any other person and the written consent of the holder of such bond, lease or right, endorse on the aforesaid deed a description of the land according to the new or corrected diagram, which description shall supersede the description already appearing in the aforesaid deeds.

(Section 44(1) amended by section 18 of Act 43 of 1962)

(Section 44(1) substituted by section 5(a) of Act 92 of 1978)

(Section 44(1) substituted by section 3 of Act 34 of 2013)

- (2) If a new diagram is produced the registrar shall in making the said endorsement substitute the new diagram for the old one.

(Section 44(2) substituted by section 5(b) of Act 92 of 1978)

- (3)

(Section 44(3) added by section 16 of Act 87 of 1965)

(Section 44(3) repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

45. Transfer or cession by means of endorsement.

- (1) If immovable property, a lease under any law relating to land settlement or a bond, which forms an asset in a joint estate is registered in a deeds registry and the surviving spouse has lawfully acquired the share of the deceased spouse in the property, lease or bond, the registrar shall on written application by the executor in the estate of the deceased spouse and by the surviving spouse save where the surviving spouse has signed as executor, accompanied by such other documents as may be prescribed, endorse

on the title deeds of the property or on the deed of lease or on the bond that the surviving spouse is entitled to deal with such property, lease or bond, and thereupon such spouse shall be entitled to deal therewith as if he or she had taken formal transfer or cession into his or her own name of the share of the deceased spouse in the property, lease or bond.

(Section 45(1) amended by section 20(a) of Act 43 of 1957)

(Section 45(1) amended by section 19(a) of Act 43 of 1962)

(Section 45(1) substituted by section 31 of Act 88 of 1984)

(Section 45(1) substituted by section 5(a) of Act 11 of 1996)

- (2) If the immovable property mentioned in sub-section (1) is hypothecated under a registered mortgage bond the endorsement provided for in the said sub-section shall not be made unless-

(a) such bond is cancelled; or

(a)bis the said property or the share of the deceased spouse therein is released from the bond; or

(Section 45(2)(a)bis inserted by section 19(b) of Act 43 of 1962)

(b)

(Section 45(2)(b) substituted by section 20(b) of Act 43 of 1957)

(Section 45(2)(b) amended by section 19(c) of Act 43 of 1962)

(Section 45(2)(b) deleted by section 5(c) of Act 11 of 1996)

(c) a written consent (which shall be in duplicate, in the prescribed form and signed by the survivor and the legal holder of the bond) to the release of the estate of the deceased spouse from liability under the bond and to the substitution of the survivor as sole debtor in respect thereof, is produced to the registrar together with the bond.

(Section 45(2)(c) substituted by section 14 of Act 14 of 1993)

(Section 45(2)(c) substituted by section 5(d) of Act 11 of 1996)

- (3) The registrar shall, in any case of release and substitution in terms of paragraph (c) of subsection (2), when he or she endorses on the title deeds of the property that the survivor is entitled to deal therewith-

(a) make in the appropriate register an entry setting forth that the estate of the deceased spouse is released from liability in respect of the obligation secured by the bond and that the survivor has become sole debtor in respect of the bond; and

(b) endorse on the bond that the estate of the deceased spouse is released from liability in respect of the obligation secured thereby and that the survivor has become sole debtor in respect of the bond.

(Section 45(3) substituted by section 5(e) of Act 11 of 1996)

- (4) As from the date of the endorsement on the title deeds of the property in terms of sub-section (1), the estate of the deceased spouse shall be absolved from any obligation secured by the bond and the survivor shall become sole debtor in respect thereof in the same manner as if he had passed the bond at that date and, if the bond is a bond to secure future debts, the immovable property thereby mortgaged will secure any further or future advances which are made by the mortgagee of the bond to the survivor.

(Section 45(4) substituted by section 2 of Act 24 of 1989)

- (5) Any reference in this section to a bond shall include a charge in favour of the Land and Agricultural Bank of South Africa or any Department of State.

(Section 45(5) added by section 19(d) of Act 43 of 1962)

45bis. Endorsement of deeds on divorce, division of joint estate, or change of matrimonial property system

- (1) If immovable property or a lease under any law relating to land settlement or a bond is registered in a deeds registry and it –

- (a) formed an asset in a joint estate of spouses who have been divorced, and one of them has lawfully acquired the share of his or her former spouse in the property, lease or bond; or
- (b) forms or formed an asset in a joint estate, and a court has made an order, or has made an order and given an authorization, under section 20 or 21(1) of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), or under section 7 of the Recognition of Customary Marriages Act, 1998, as the case may be, in terms of which the property, lease or bond is awarded to one of the spouses,

(Section 45bis(1)(b) substituted by section 12(2)(a) of Act 120 of 1998)

the registrar may, on written application by the spouse concerned and accompanied by such documents as the registrar deems necessary, endorse on the title deeds of the property or on the lease or the bond that such spouse is entitled to deal with such property, lease or bond, and thereupon such spouse shall be entitled to deal therewith as if he or she had taken formal transfer or cession into his or her name of the share of the former spouse or his or her spouse, as the case may be, in the property, lease or bond.

(Section 45bis(1) substituted by section 6(a) of Act 11 of 1996)

- (1A) If immovable property or a lease under any law relating to land settlement or a bond is registered in a deeds registry and it --

- (a) formed an asset in a joint estate of spouses who have been divorced, and such property, lease or bond accrues to both the former spouses in undivided shares in terms of the division of the joint estate; or
- (b) forms or formed an asset in a joint estate and a court has made an order, or has made an order and given an authorization under section 20 or 21(1) of the Matrimonial Property Act, 1984 (Act

No. 88 of 1984) or under section 7 of the Recognition of Customary Marriages Act, 1998, as the case may be, in terms of which the property, lease or bond is awarded to both spouses in undivided shares,

(Section 45bis(1A)(b) substituted by section 12(2)(b) of Act 120 of 1998)

the registrar may on written application by both spouses, accompanied by such documents as the registrar deems necessary, endorse on the title deeds of the property, or on the lease or bond, that such spouses are entitled to deal with such property, lease or bond, and thereupon such spouses shall be entitled to deal therewith as if they had taken formal transfer or cession into their names of their respective shares in such property, lease or bond.

(Section 45bis(1A) inserted by section 3(a) of Act 24 of 1989)

(Section 45bis(1A) substituted by section 6(a) of Act 11 of 1996)

(2)

- (a) If immovable property referred to in subsection (1) is hypothecated under a registered mortgage bond, the provisions of subsections (2), (3) and (4) of section 45 shall *mutatis mutandis* apply.
- (b) If immovable property referred to in subsection (1A) is hypothecated under a registered mortgage bond, the endorsement provided for in the said subsection shall not be made unless -
 - (i) such bond is cancelled; or
 - (ii) the said property is released from the bond; or
 - (iii) the former spouses jointly and severally assume liability in writing (in the prescribed form and signed by both such spouses and the legal holder of the bond) for all the indebtedness and renounce the exception *de duobus vel pluribus reis debendi*.

(Section 45bis(2) substituted by section 3(b) of Act 24 of 1989)

(Section 45bis(2) substituted by section 15 of Act 14 of 1993)

- (3) The reference in subsection (2) to a bond shall include a charge in favour of the Land and Agricultural Bank of South Africa or any Department of State.

(Section 45bis inserted by section 21 of Act 43 of 1957)

(Section 45bis amended by section 20 of Act 43 of 1962)

(Section 45bis substituted by section 2 of Act 75 of 1987)

CHAPTER IV.

Townships and Settlements.

46. Requirements in the case of sub-division of land into lots or erven.

- (1) If land has been sub-divided into lots or erven shown on a general plan, the owner of the land sub-divided shall furnish a copy of the general plan to the registrar, who shall, subject to compliance with the requirements of this section and of any other law, register the plan and open a register in which all registrable transactions affecting the respective lots or erven shown on the plan shall be registered.
- (2) For the purposes of registration of such a general plan the title deed of the land which has been sub-divided shall be produced to the registrar together with the diagram thereof and any mortgage bond endorsed on the title deed and the mortgagee's consent to the endorsement of such bond to the effect that it attaches to the land described in the plan.

(Section 46(2) amended by section 22(a) of Act 43 of 1957)

- (3) If the land sub-divided as shown on the general plan forms the whole of any registered piece of land held by the title deed, the registrar shall make upon the title deed and the registry duplicate thereof an endorsement indicating that the land has been laid out as a township or settlement, as the case may be, in accordance with the plan, and that the lots or erven shown on the plan are to be registered in the relative register.

(Section 46(3) substituted by section 6 of Act 92 of 1978)

- (4) If the land sub-divided as shown on the general plan forms a portion only of any registered piece of land held by the title deed the registrar shall, on written application by the owner of the land, issue a certificate of township or settlement title in his favour in respect of the said portion as nearly as practicable in the prescribed form and in accordance with a diagram thereof.

- (5) If the land sub-divided as shown on the general plan comprises the whole or portions of two or more registered pieces of land, the registrar may require the owner to obtain a certificate of consolidated title of the land so sub-divided. The registrar shall make on such certificate the endorsement mentioned in sub-section (3).

(Section 46(5) amended by section 22(b) of Act 43 of 1957)

- (6) The provisions of section *forty-three* and of sub-sections (3) to (6) inclusive of section *forty* shall respectively and *mutatis mutandis* apply in respect of the certificates of township or settlement title mentioned in sub-section (4), and the certificates of consolidated title mentioned in sub-section (5).

(Section 46(6) amended by section 22(b) of Act 43 of 1957)

- (7) Where a general plan has been registered in terms of sub-section (1), it shall not be necessary, where a whole erf is transferred, to produce a diagram thereof: Provided that where a diagram has not been produced, a reference shall be made to the general plan in the relevant deed of transfer: Provided further that the provisions of this subsection shall apply only with reference to general plans lodged for registration on or after the date of commencement of the Deeds Registries Amendment Act, 1965.

(Section 46(7) added by section 17 of Act 87 of 1965)

46A. Special requirements in the case of subdivision into lots or erven of land in the area of deeds registry at Johannesburg

- (1) Notwithstanding the provisions of section 46, no general plan referred to in subsection (1) of that section in respect of land situated in the area of the deeds registry at Johannesburg shall be registered in terms of that subsection, and no register so referred to in respect of the lots or erven shown on such general plan shall be opened, unless the land subdivided forms the whole of the land held under the relevant title deed or forms a portion of land registered in the deeds registry at Johannesburg.
- (2) When any such general plan is to be registered in respect of land situated in the area of the deeds registry at Johannesburg and registered in the deeds registry at Pretoria, the registrar at Pretoria shall, after the necessary examination and after having made the endorsements contemplated in section 46(3), furnish certified copies of the title deed of such land and of all other deeds and documents relating to such land and registered or recorded in his office, to the registrar at Johannesburg.
- (3) The registrar at Johannesburg shall thereupon register the general plan and open the register contemplated in subsection (1) of section 46 in accordance with the requirements of that subsection and shall enter in his registers or file of record in his office, as the circumstances may require, the copies of the title deed, other deeds and documents furnished to him under subsection (2) of this section.
- (4) In the application of any relevant law in relation to the land in question, a title deed, other deed or document of which a copy has in terms of this section been furnished to the registrar at Johannesburg and entered in his registers, shall be deemed to be registered or recorded in his office, as the circumstances may require, and any such copy shall in so far as may be necessary be deemed to be the registry duplicate of the title deed, other deed or document in question.
- (5) If any land ceases to be land included in a township in the area of the deeds registry at Johannesburg, the registrar at Johannesburg shall furnish certified copies of the title deed of such land and of all other deeds and documents registered in his office and relating to such land and which may be necessary for the registration or recording of any further legal transactions in relation to such land in the deeds registry at Pretoria, to the registrar at Pretoria who shall, after making such endorsements as he may deem necessary on such copies, enter such copies in his registers, and thereupon the title deed, other deeds and documents shall be deemed to be registered or recorded, as the case may be, in the deeds registry at Pretoria.

(Section 46A inserted by section 5 of Act 61 of 1969)

46B. Section 46 applies *mutatis mutandis* to land otherwise subdivided

The provisions of section 46 do not preclude the registration of a general plan and opening of a register in respect of any land other than land subdivided into lots or erven, and the provisions of that section shall *mutatis mutandis* apply to such land.

(Section 46B inserted by section 7 of Act 93 of 1998)

47. Transfer of township or portion thereof.

The owner of land in respect of which a register has been opened under section *forty-six* may transfer, by one deed, the whole or any portion of such land or a share in the whole of such land: Provided that -

- (a) if a portion only of the land is sought to be transferred-
 - (i) the transfer shall be passed in accordance with a diagram (to be annexed to such deed) from which shall be excluded all erven on the land represented thereon which have already been transferred, and on which the total area of such transferred erven shall be indicated;
 - (ii) the boundaries of such portion shall coincide with one or more of the lines of division shown on the general plan and shall not intersect any of the erven shown thereon;
- (b) if the remainder of the land is sought to be transferred or mortgaged or otherwise dealt with there shall be produced to the registrar a certificate of remainder signed by the surveyor-general; and
(Section 47(b) amended by section 21 of Act 43 of 1962)
- (c) the deed of transfer shall disclose that the land conveyed thereby has been laid out as a township or is a portion of land so laid out, that such land remains subject to the provisions of the law relating to townships, and, if any public place or portion thereof in such township forms part of the land transferred, that the rights of owners of erven and of other persons to such public place are not affected by such transfer.

48. Special provisions regarding a bond over land in the area of jurisdiction of the deeds registry at Johannesburg and other land

(Heading substituted by section 4 of Act 34 of 2013)

- (1) Where land situated in a township in the area of the deeds registry at Johannesburg is hypothecated together with other land not registered in that registration office, the bond shall be cancelled or that land or such other land be released from the bond before any other legal transaction in relation to that land or such other land is registered.
- (2) In subsection (1) 'bond' includes a charge in favour of the Land and Agricultural Bank of South Africa or any Department of State.

(Section 48 substituted by section 6 of Act 61 of 1969)

49. Special provisions regarding townships in the Transvaal.

- (1) If any area of land in the province of the Transvaal constitutes by reason of its situation a portion of an existing township, the Administrator may, by proclamation in the official *Gazette* of that Province, extend

the boundaries of that township to include such area, and thereupon such area of land shall be deemed to be and shall be registered as an erf in that township.

- (2) If that township is situate in the area served by the deeds registry at Johannesburg, the registrar at Pretoria shall furnish the registrar at Johannesburg with certified copies of the title to the land to be included in such township and of all deeds affecting it, and the registrar at Johannesburg shall thereupon enter the same in the appropriate registers.
- (3) No township shall be established or laid out in the Transvaal or be approved by the Administrator of the Transvaal unless the land to be included in such township is wholly situated either within or outside the area of the deeds registry at Johannesburg.

(Section 49(3) added by section 7 of Act 61 of 1969)

CHAPTER V. BONDS.

General Provisions.

50. Execution of bonds.

- (1) A mortgage bond shall be executed in the presence of the registrar by the owner of the immovable property therein described or by a conveyancer duly authorized by such owner by power of attorney, and shall be attested by the registrar.
- (2) A mortgage bond or notarial bond may be registered to secure an existing debt or a future debt or both existing and future debts.
- (3) Mortgage bonds or notarial bonds intended to secure loans for building purposes shall be deemed to be bonds to secure existing debts.
- (4) If in a mortgage bond or notarial bond purporting to secure a future debt the amount of an existing debt is mentioned, such existing debt shall be deemed to be secured as part of the maximum amount intended to be secured by such bond.
- (5) Save as authorized by any other law or by order of the Court, debts or obligations to more than one creditor arising from different causes may not be secured by one mortgage bond or notarial bond.

(Section 50 substituted by section 18 of Act 87 of 1965)

50A. Irrelevant provisions

Notwithstanding the provisions of section 3(1)(b) a registrar shall not examine any provisions relating to a bond which are not relevant to the registration of the bond.

(Section 50A inserted by section 12 of Act 57 of 1975)

51. Requirements in case of bonds intended to secure future debts.

- (1) No mortgage bond or notarial bond attested or registered after the commencement of this Act shall be of any force or effect for the purpose of giving preference or priority in respect of any debt incurred after the registration of such bond, unless –
- (a) it is expressly stipulated in the bond that the bond is intended to secure future debts generally or some particular future debt described therein; and
 - (b) a sum is fixed in the bond as an amount beyond which future debts shall not be secured by the bond.

(Section 51(1) substituted by section 14 of Act 27 of 1982)

- (2) If a mortgage bond or notarial bond purports to secure payment by the mortgagor of the costs of preserving and realizing the security or of fire insurance premiums, cost of notice or bank exchange, such costs and charges shall not be deemed to be future debts within the meaning of sub-section (1).

(Section 51 substituted by section 19 of Act 87 of 1965)

52. Cession of bond to secure future advances.

A cession of a mortgage bond or notarial bond passed to secure future advances may be registered and the registration of such a cession shall not affect the provisions of the bond relating to future advances up to the amount stated in such bond or the amount as reduced.

(Section 52 substituted by section 23 of Act 43 of 1957)

(Section 52 amended by section 22 of Act 43 of 1962)

(Section 52 substituted by section 20 of Act 87 of 1965)

53. Exclusion of general clause in mortgage bonds.

- (1) Save as provided in any other law the registrar shall not attest any mortgage bond which purports to bind movable property or which contains the clause, commonly known as the general clause, purporting to bind generally all the immovable or movable property of the debtor or both and shall not register any notarial bond which purports to bind immovable property.
- (2) No mortgage bond shall be passed by two or more mortgagors unless it purports to bind immovable property of each mortgagor: Provided that notwithstanding the provisions of sub-section (1) of section *fifty*, land held subject to a condition that, on the happening of a certain event, such land shall revert to a person named in such condition, may be mortgaged by the owner thereof and such person by means of a bond passed by them jointly and severally, or may be mortgaged by the owner of such land with the consent of such person.

(Section 53(2) amended by section 24 of Act 43 of 1957)

54. No bond to be passed in favour of an agent.

No mortgage bond or notarial bond shall be passed in favour of any person as the agent of a principal.

(Section 54 substituted by section 21 of Act 87 of 1965)

55. Requirements in case of bonds passed by or in favour of two or more persons.

- (1) If a mortgage bond or notarial bond is passed by two or more mortgagors, no release from the bond-
- (a) of any mortgagor and his property, or of a portion of the property of any mortgagor may be registered without the written consent of the other mortgagor or mortgagors; or
 - (b) of all the property of any mortgagor may be registered unless such mortgagor is also released.
- (1)*bis* If a mortgage bond or notarial bond is passed by two or more mortgagors, no waiver of preference by the mortgagee in favour of a further mortgage bond or notarial bond over the property of one of the mortgagors may be registered without the written consent of the other mortgagor or mortgagors.
- (2) No mortgage bond or notarial bond may be passed in favour of two or more persons in which it is stipulated that the share of one holder shall rank prior in order of preference to the share of another, nor may any transaction be registered which would have the effect of giving preference to one share in such bond over another share.

(Section 55 amended by section 25 of Act 43 of 1957)

(Section 55 amended by section 23 of Act 43 of 1962)

(Section 55 substituted by section 22 of Act 87 of 1965)

Rights of Mortgagees

56. Transfer of hypothecated immovable property

- (1) No transfer of mortgaged land shall be attested or executed by the registrar, and no cession of a mortgaged lease of immovable property, or of any mortgaged real right in land, shall be registered until the bond has been cancelled or the land, lease, or right has been released from the operation of the bond with the consent in writing of the holder thereof or unless, in the case of any such mortgage bond which has been lost or destroyed, the registrar has on application by the registered holder thereof, cancelled the registry duplicate of such bond: Provided that no such cancellation or release shall be necessary if the transfer or cession is made-

(Words preceding section 56(1)(a) amended by section 26 of Act 43 of 1957)

(Words preceding the proviso to section 56(1) substituted by section 15 of Act 27 of 1982)

- (a) in execution of the judgment of any court (including a magistrate's court) by the competent officer;
or

(Section 56(1)(a) substituted by section 23 of Act 87 of 1965)

(Section 56(1)(a) substituted by section 16 of Act 14 of 1993)

- (b) by the trustee of an insolvent estate, an executor administering and distributing an estate under section 34 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), the liquidator of a company or a close corporation which is unable to pay its debts and which is being wound up by or under the supervision of the court or the Master; or

(Section 56(1)(b) substituted by section 8 of Act 3 of 1972)

(Section 56(1)(b) substituted by section 16 of Act 14 of 1993)

(Section 56(1)(b) substituted by section 5 of Act 34 of 2013)

- (c) in any other circumstances in this Act or in any other law specially provided or as ordered by the court.

- (2) A consent to the release from the operation of a bond of all the property mortgaged thereunder shall, except where the debt secured by such bond is further secured by a collateral bond, be deemed to be a consent to the cancellation of that bond.

57. Substitution of debtor in respect of a bond

- (1) If the owner (in this section referred to as the transferor) of land which is hypothecated under a registered mortgage bond other than a mortgage bond to secure the obligations of a surety (not being a person referred to in paragraph (b) of sub-section (1) of section *fifty-six*) transfers to another person the whole of the land hypothecated thereunder, and has not reserved any real right in such land, the registrar may, notwithstanding the provisions of sub-section (1) of the said section, register the transfer and substitute the transferee for the transferor as debtor in respect of the bond: Provided that there is produced to him, in duplicate, the written consent in the prescribed form of the holder of the bond and the transferee to the substitution of the transferee for the transferor as the debtor in respect of the bond for the amount of the debt disclosed therein or for a lesser amount.

(Section 57(1) amended by section 27(a) of Act 43 of 1957)

(Section 57(1) amended by section 24(a) and (b) of Act 43 of 1962)

- (2) In registering the transfer in terms of subsection (1) the registrar shall-

- (a) endorse upon the deed of transfer that the land has been transferred subject to the bond;
- (b) endorse upon the bond that the transferee has been substituted for the transferor as debtor; and
- (c) make such consequential entries in the registry records as he may deem necessary.

(Section 57(2) amended by section 7 of Act 92 of 1978)

(Section 57(2) substituted by section 16(a) of Act 27 of 1982)

- (3) As from the date of the transfer deed the transferor shall be absolved from any obligation secured by the bond and the transferee shall be substituted for him as the debtor in respect of such bond and shall be bound by the terms thereof in the same manner as if he had himself passed the bond and had renounced therein the benefit of all relevant exceptions and, if the bond is a bond to secure future debts, the immovable property thereby mortgaged will secure any further or future advances which are made by the mortgagee of the bond to the transferee.

(Section 57(3) substituted by section 4 of Act 24 of 1989)

- (4) The provisions of this section shall not apply if the mortgaged land is to be transferred-

- (a) to a person who would not himself be competent to mortgage it; or
- (b) to two or more persons, unless they take transfer of the land in undivided shares and renounce, in the written consent referred to in sub-section (1) the exception *de duobus vel pluribus reis debendi*.

(Section 57(4)(b) amended by section 16(b) of Act 27 of 1982)

- (c)

(Section 57(4)(c) amended by section 27(b) of Act 43 of 1957)

(Section 57(4)(c) deleted by section 16(c) of Act 27 of 1982)

- (5) The provisions of sub-sections (1) to (4), inclusive, shall *mutatis mutandis* apply in respect of immovable property other than land which is hypothecated under a registered mortgage bond.

(Section 57(5) added by section 27(c) of Act 43 of 1957)

58. Powers in respect of certain property in insolvent and certain other estates

- (1) Immovable property which has vested in a trustee in accordance with the law relating to insolvency and which has not in terms of that law been re-vested in the insolvent may, subject to the provisions of section 25(3) of the Insolvency Act, 1936 (Act No. 24 of 1936), whether before or after rehabilitation of the insolvent, be transferred only by the trustee, and may not after such rehabilitation be transferred, mortgaged or otherwise dealt with by the insolvent until it has been transferred to him by the trustee: Provided that if after rehabilitation the trustee has been discharged or there is no trustee in existence, the Master shall, if satisfied that the rehabilitated insolvent is entitled to the property, give him transfer thereof in such manner as may be prescribed.

(Section 58(1) substituted by section 10(a) of Act 122 of 1993)

- (2) If by virtue of the provisions of the law relating to insolvency an insolvent has been re-vested with the ownership of any property, such property may not, subject to the provisions of section 25(3) of the Insolvency Act, 1936 (Act No. 24 of 1936), be transferred, mortgaged or otherwise dealt with by the

insolvent until an endorsement that the property has been restored to him, has been made by the registrar on the title deed of the property.

(Section 58(2) substituted by section 10(b) of Act 122 of 1993)

(3) Nothing in this section contained shall be construed as modifying any provision of the law relating to insolvency.

(4) The provisions of this section shall apply *mutatis mutandis* in respect of –

(a) estates administered and distributed under section 34 of the Administration of Estates Act, 1965 (Act No. 66 of 1965);

(b) companies which are unable to pay their debts and are liquidated and wound up by or under supervision of the court under the Companies Act, 1973 (Act No. 61 of 1973);

(Section 58(4)(b) amended by section 17 of Act 14 of 1993)

(bA) close corporations which are unable to pay their debts and are liquidated and wound up by or under the supervision of the court under the Close Corporations Act, 1984 (Act No. 69 of 1984);
and

(Section 58(4)(bA) inserted by section 17 of Act 14 of 1993)

(c) assets of an applicant referred to in Part III of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), which are administered by a liquidator or trustee who has received from the Master a certificate mentioned in section 29 of the said Act.

(Section 58 amended by section 9 of Act 3 of 1972)

(Section 58 amended by section 8 of Act 92 of 1978)

(Section 58 substituted by section 17 of Act 27 of 1982)

59.

(Section 59 repealed by section 18 of Act 27 of 1982)

60. Consent of bondholder to registration of merger of rights of mortgagor

If the holder of a mortgaged lease of land or of mortgaged real rights in land acquires the ownership of that land, or if the holder of a mortgaged lease of real rights in land acquires those rights, or if the owner of mortgaged land which is entitled to rights of servitude over other land, acquires the ownership of that other land, such acquisition of the additional land or rights shall not be registered without the consent in writing of the holder of the bond.

Notarial Bonds.

61. Registration of notarial bonds.

Prepared by:

- (1) Every notarial bond executed before or after the commencement of this Act shall be registered in a deeds registry within the period of three months after the date of its execution or within such extended period as the court may on application allow.

(Section 61(1) substituted by section 24 of Act 87 of 1965)

- (2)

(Section 61(2) deleted by section 28 of Act 43 of 1957)

- (3) Every notarial bond shall disclose-

- (a) the place at and the date on which it was executed, as well as the place where the notary practises; and
- (b) the place where the debtor resides and the place or places, if any, where he carries on business.

- (4)

(Section 61(4) deleted by section 28 of Act 43 of 1957)

62. Where notarial bond is to be registered.

- (1) Save as provided in sub-sections (3) and (4), every notarial bond shall be registered in the deeds registry for the area in which the debtor resides and carries on business, or if he resides and carries on business in areas served by different deeds registries, in the deeds registry for the area in which he resides and in every deeds registry serving any area in which he carries on business: Provided that notarial bonds passed in Natal in pursuance of the Notarial Bonds (Natal) Act, 1932 (Act No. 18 of 1932), irrespective of whether the debtor resides or carries on business in Natal, shall be sufficiently registered for the purposes of this Act if registered in the deeds registry at Pietermaritzburg.

(Section 62(1) amended by section 29 of Act 43 of 1957)

- (2) Registration of a notarial bond in accordance with the provisions of sub-section (1) shall be effective as registration for the whole Republic.
- (3) Registration of a notarial bond in the deeds registry for any area in which the debtor resides or carries on business shall be effective for such area.
- (4) Registration of a notarial bond executed by a company incorporated with limited liability or a close corporation shall, if the bond is registered in the deeds registry for the area in which the registered office of such company or close corporation is situated at the date of the registration of such bond, be effective as registration for the whole of the Republic.

(Section 62(4) substituted by section 18(a) of Act 14 of 1993)

- (5) A notarial bond which is required to be registered in more than one deeds registry shall be registered in the first registry within the period prescribed by subsection (1) of section *sixty-one*, in the second registry within an additional period of four months from the date of its registration in the first registry and in each successive registry within a further additional period of four months or within such extended period as the court may on application allow.

(Section 62(5) substituted by section 9 of Act 20 of 2024)

- (6) For the purpose of registration in the other registries it shall be sufficient if the original bond registered in the first registry is produced together with a further duplicate or grosse or a copy thereof certified by a notary public for filing in the registry concerned: Provided that where a deeds registry uses a filing process referred to in section 3(3), it shall not be necessary to produce a further duplicate, grosse or certified copy of such bond: Provided further that in the event of simultaneous registration in more than one deeds registry being necessary, the registrars in respect of the other registries may each accept one duplicate or grosse or a copy thereof certified by a notary, for registration, and on production of the original bond registered in the first registry, shall endorse thereon the facts of registration in such other registries, and similarly record on the registry duplicate facts of registration in other registries.

(Section 62(6) amended by section 25(a) and (b) of Act 43 of 1962)

(Proviso to section 62(6) substituted by section 18(b) of Act 14 of 1993)

(Section 62 substituted by section 2 of Act 15 of 1953 and deemed to have come into operation on 1 September 1937)

CHAPTER VI. RIGHTS IN IMMOVABLE PROPERTY.

General Provisions.

63. Restriction on registration of rights in immovable property.

- (1) No deed, or condition in a deed, purporting to create or embodying any personal right, and no condition which does not restrict the exercise of any right of ownership in respect of immovable property, shall be capable of registration: Provided that a deed containing such a condition as aforesaid may be registered if, in the opinion of the registrar, such condition is complementary or otherwise ancillary to a registrable condition or right contained or conferred in such deed.
- (2) The provisions of subsection (1) shall not apply with reference to any condition in a mortgage bond or lease or in a deed referred to in section 3(1)(c) or (p).

(Section 63(2) substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(Section 63 amended by section 26 of Act 43 of 1962)

(Section 63 substituted by section 10 of Act 62 of 1973)

64. Certificates of registered real rights.

- (1) Any person who either before or after the commencement of this Act has transferred land subject to the reservation of any real right in his favour may on application in writing to the registrar accompanied by the title deed of the land obtain a certificate of registration of that real right as nearly as practicable in the prescribed form.

(Section 64(1) amended by section 53 of Act 24 of 2003)

- (2) Such person shall not separately mortgage or otherwise deal with such right or transfer a share thereof (if transferable) unless he has obtained such certificate in the manner aforesaid.

(2)*bis*

*(Section 64(2)*bis* inserted by section 25 of Act 87 of 1965)*

*(Section 64(2)*bis* repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)*

(2)*ter*

*(Section 64(2)*ter* inserted by section 3 of Act 75 of 1987)*

*(Section 64(2)*ter* repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)*

- (3) The provisions of sub-sections (2) to (4) inclusive of section *thirty-seven* shall *mutatis mutandis* apply in respect of such certificate.

Personal Servitudes.

65. Registration of notarial deed creating personal servitude

- (1) Save as provided in any other law, a personal servitude may be created by means of a deed executed by the owner of the land encumbered thereby and the person in whose favour it is created, and attested by a notary public: Provided that in the case of a servitude in favour of the public or of all or some of the owners or occupiers of erven or lots in a township or settlement, the registrar may, if in his opinion it is impracticable to require such deed to be executed by the persons in whose favour the servitude is created, register such deed notwithstanding the fact that it has not been executed by such persons: Provided further that where it is desired to register a road or thoroughfare in favour of the public at the same time as the registration of a subdivision which it serves, it shall in like manner and without the registration of a notarial deed be permissible to register it in the deed relating to the subdivision and also to endorse the deed of the remainder accordingly: Provided further that conditions which restrict the exercise of any right of ownership in immovable property may be included in any deed of transfer of such immovable property tendered for registration if such conditions are capable of being enforced by some person who is mentioned in, or, if not mentioned therein, is ascertainable from the said deed of transfer or from other evidence and such person, if determinable, has signified acceptance of such right.

(Section 65(1) amended by section 30(a) and (b) of Act 43 of 1957)

(Section 65(1) substituted by section 27 of Act 43 of 1962)

- (2) Such deed shall contain a sufficient description of the land encumbered by the servitude and shall mention the title deed of such land.
- (3) If the land to be encumbered by a personal servitude is mortgaged or subject to any other real right with which the said personal servitude may conflict, the bond or other registered deed by which such right is held shall be produced to the registrar together with a consent in writing of the legal holder of such bond or other right to the registration of the said personal servitude and, in the case of a bond, free from the bond.

(Section 65(3) substituted by section 30(c) of Act 43 of 1957)

(Section 65(3) substituted by section 19 of Act 27 of 1982)

66. Restriction on registration of personal servitudes

No personal servitude of *usufruct*, *usus* or *habitatio* purporting to extend beyond the lifetime of the person in whose favour it is created shall be registered, nor may a transfer or cession of such personal servitude to any person other than the owner of the land encumbered thereby, be registered.

67. Reservation of personal servitudes.

A personal servitude may be reserved by condition in a deed of transfer of land if the reservation is in favour of the transferor, or in favour of the transferor and his or her spouse or the survivor of them, if they are married in community of property, or in favour of the surviving spouse if transfer is passed or given from the joint estate of spouses who were married in community of property.

(Section 67 substituted by section 8 of Act 93 of 1998)

(Section 67 amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

68. Registration of lapse of personal servitude

- (1) If for any reason a personal servitude has lapsed, the registrar shall, on written application by or on behalf of the owner of the land encumbered thereby, accompanied by proof of the lapse of the servitude, the title deed of the land and, if available, the title deed, if any, of the servitude (which title deed the holder of the servitude shall on demand hand over to the owner of such land) note on the title deed of the land and of the servitude, if the title deed of the servitude has been produced, that the servitude has lapsed.
- (2) Cancellation of the registration of a personal servitude in pursuance of an agreement between the owner of the land encumbered and the holder of the servitude shall be effected by notarial deed: Provided that no such deed shall be registered if the servitude is mortgaged, unless the mortgagee consents in writing to the cancellation of the bond or the release of the, servitude from its operation.

69. Transfer and mortgage of land with personal servitude thereon

- (1) If the owner of land subject to a personal servitude and the holder of that servitude have disposed of the land or any portion thereof together with the rights of servitude to another person, they may together give transfer thereof to the person acquiring it.
- (2) The transfer deed shall describe the transferors as the owner of the land and holder of the servitude respectively, but no mention of the servitude shall be made in the description of the land therein.
- (3) The owner of land subject to a personal servitude and the holder of that servitude may together mortgage the land to the full extent of their respective rights therein.
- (4) The owner of the land and the holder of the servitude may either of them as principal debtor mortgage the land or the servitude respectively and the other of them may in the same bond mortgage the servitude or the land as surety.

69bis. Joint transactions by fiduciary and fideicommissary.

- (1) If the owner of land subject to a *fideicommissum* and the fideicommissary, if the latter is competent so to do, have disposed of the land or any portion thereof, together with the fideicommissary rights, to any other person, they may together give transfer thereof to that person.
- (2) The transfer deed shall describe the transferors as the owner of the land and the holder of the fideicommissary right respectively, but no mention of the fideicommissary right shall be made in the description of the land therein.
- (3) The owner of land subject to a *fideicommissum* and the fideicommissary, if the latter is competent so to do, may together mortgage the land to the full extent of their respective rights therein.

(Section 69bis inserted by section 31 of Act 43 of 1957)

Rights to Minerals.

70.

(Section 70 amended by section 32 of Act 43 of 1957)

(Section 70 amended by section 28 of Act 43 of 1962)

(Section 70 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

71.

(Section 71 amended by section 29 of Act 43 of 1962)

(Section 71 amended by section 26 of Act 87 of 1965)

(Section 71 amended by section 20 of Act 27 of 1982)

(Section 71 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

72.
(Section 72 amended by section 33) of Act 43 of 1957)
(Section 72 amended by section 30 of Act 43 of 1962)
(Section 72 amended by section 10 of Act 3 of 1972)
(Section 72 amended by section 9 of Act 93 of 1998)
(Section 72 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

73.
(Section 73 amended by section 31 of Act 43 of 1962)
(Section 73 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

73bis.....
(Section 73bis inserted by section 32 of Act 43 of 1962)
(Section 73bis amended by section 7 of Act 11 of 1996)
(Section 73bis repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

74.
(Section 74 substituted by section 2 of Act 44 of 1980)
(Section 74 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

74bis.....
(Section 74bis inserted by section 27 of Act 87 of 1965)
(Section 74bis repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

74ter.....
(Section 74ter inserted by section 5 of Act 24 of 1989)
(Section 74ter repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

Praedial Servitudes.

75. Creation of praedial servitude by notarial deed

(1) A praedial servitude in perpetuity or for a limited period may be created by means of a deed executed by the owners of the dominant and servient tenements and attested by a notary public.
(Section 75(1) amended by section 34(a) of Act 43 of 1957)

(2)
(Section 75(2) deleted by section 20 of Act 14 of 1993)

(2)bis. If it is sought to cancel a servitude, and the dominant tenement is mortgaged, the bond shall be produced together with the consent in writing of the legal holder thereof to the registration of the cancellation.
(Section 75(2)bis added by section 34(b) of Act 43 of 1957)

- (3) The provisions of sub-sections (2) and (3) of section *sixty-five* shall *mutatis mutandis* apply in respect of praedial servitudes.

76. Conditions of registration of praedial servitudes.

- (1) A praedial servitude in perpetuity or for a limited period may be created in a transfer of land only if the servitude is imposed on the land transferred in favour of other land registered in the name of the transferor, or is imposed in favour of the land transferred on other land registered in the name of the transferor: Provided that if-

(Words preceding section 76(1)(a) amended by section 35(a) of Act 43 of 1957)

- (a) the land to be transferred is admitted by the person seeking to pass transfer thereof to be subject to unregistered rights of servitude in favour of land registered in a third person's name; and
- (b) the person to whom the transfer is to be passed consents in writing to such servitude being embodied in the transfer; and

(Section 76(1)(b) substituted by section 28(a) of Act 87 of 1965)

- (c) such third person appears either in person or by duly authorized agent before the registrar at the time of execution of the transfer and accepts the servitude in favour of his land,

the servitude may be embodied in such transfer. The appearance of such third person as aforesaid and his acceptance of the servitude shall be recited in the deed of transfer and the title deed of the dominant tenement shall be produced for endorsement thereon of the terms of the servitude.

- (1)*bis* If a praedial servitude for a limited period has lapsed, the registrar shall on written application by or on behalf of any owner of the land affected thereby, and on production of the title deeds of the dominant and servient properties, and the title deed, if any, of the servitude (which title deeds the holder of the servitude and the owners of the dominant and servient tenements shall on demand produce), note on the title deeds of the land and the servitude that the servitude has lapsed.

*(Section 76(1)*bis* inserted by section 33(a) of Act 43 of 1962)*

- (2) If the servitude is imposed on other land in favour of the land to be transferred, and that other land is mortgaged or is subject to any other registered real right with which the servitude may conflict, the consent in writing of the legal holder of the bond or of such other right, to the registration of the servitude shall be produced, together with the bond or other deed evidencing such other right and the title deed of the servient tenement.
- (3) In registering the deed of transfer in which the servitude is embodied the registrar shall endorse the terms of the servitude and the number and date of the transfer on the title deed of the other tenement and if a bond or other deed is produced, as aforesaid, also thereon.

- (4) In the sub-division of land which is entitled to a servitude over other land, it shall be competent for the owner when transferring such sub-division to stipulate in his power of attorney that the exercise of the rights is restricted to the land still held by him, and in that event the transfer of the portion in question shall make no reference to the servitude, nor shall it be necessary to record on the title of the servient tenement that the rights are so restricted.

(Section 76(4) added by section 35(b) of Act 43 of 1957)

- (5)

(Section 76(5) added by section 35(b) of Act 43 of 1957)

(Section 76(5) substituted by section 33(b) of Act 43 of 1962)

(Section 76(5) deleted by section 28(b) of Act 87 of 1965)

Leases.

77. Registration of leases and sub-leases.

- (1) Save where provision to the contrary is made in any law, any lease or sub-lease of land and any cession of such a lease or sub-lease intended or required to be registered in a deeds registry, shall be executed by the lessor and the lessee or by the lessee and the sub-lessee or by the cedent and the cessionary, as the case may be, and shall be attested by a notary public: Provided that any such lease shall be registered for the full term thereof, including periods of renewal.

(Section 77(1) amended by section 34 of Act 43 of 1962)

(Section 77(1) amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

- (1)*bis* Whenever a cession of a lease is to be registered in respect of any portion of the land leased, a notarial copy of the lease shall be attached to such cession and after registration such cession with the notarially certified copy of the lease annexed thereto shall be deemed to be the title to the portion of the lease so ceded, and for any subsequent registration in respect thereof it shall be part of the title.

*(Section 77(1)*bis* inserted by section 29 of Act 87 of 1965)*

- (2) If the land leased or sub-leased is mortgaged or subject to rights of any other person it shall not be necessary for purposes of registration of the lease or sub-lease or any cession thereof to produce the bond or the other deed whereby such rights are held or the consent of the legal holder thereof.

(Section 77(2) amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

78. Termination of registered lease.

- (1) When a registered lease or sub-lease has terminated the registrar shall on written application by the owner of the land affected thereby, or the holder of the lease, as the case may be, accompanied by proof of the termination of the lease or sub-lease and, in the case of the termination of the lease, by the title deed of the land and if available the deed of lease, or in the case of the termination of the sub-lease,

by the deed of lease and if available the deed of sub-lease, note in the case of the termination of the lease, on the title deed of the land and on the deed of lease, if produced, or in the case of the termination of the sub-lease, upon the deed of lease and upon the deed of sub-lease, if produced, that the lease or sub-lease as the case may be, has terminated.

- (2) If the full term, including periods of renewal, of a registered lease or sub-lease has expired no further transactions affecting that lease or sub-lease shall be registered.

79. Where lease to be registered.

Save where provision to the contrary is made in any law, any lease of immovable property which is registered in the name of the lessor in a deeds registry may be registered in that registry and any sub-lease of any lease so registered may be registered in that registry.

80. Cessions of leases and sub-leases.

No cession of a lease or sub-lease shall be registered in any deeds registry unless the lease or sub-lease has been registered therein.

81. Hypothecation of leases and sub-leases.

No hypothecation of a lease or sub-lease shall be registered in any deeds registry unless such hypothecation is effected by means of-

- (a) a mortgage bond, if the lease or sub-lease is immovable property; or
- (b) a notarial bond, if the lease or sub-lease is not immovable property.

82. Notarial bonds hypothecating leases or sub-leases.

- (1) For the registration of a notarial bond specially hypothecating a registered lease or sub-lease the deed of lease or sub-lease shall be produced to the registrar.

(Section 82(1) amended by section 35 of Act 43 of 1962)

- (2) In registering such bond the registrar shall endorse on the deed that the lease or sub-lease has been hypothecated by the bond.
- (3) The provisions of sub-section (1) of section *fifty-six* shall *mutatis mutandis* apply in respect of any lease or sub-lease so hypothecated.

83. Hypothecation of and settlement lease after exercise of option to purchase

If in any lease entered into under any law relating to land settlement the lessee is given the option to purchase the property leased or any portion thereof, and he has exercised the option, the rights to the property so acquired by the lessee may, if the lease is registered in a deeds registry and is not subject to an existing bond, be hypothecated by a notarial bond.

- (2) The provisions of section *eighty-two* shall *mutatis mutandis* apply in respect of the registration of such a bond.
- (3) If such lease is subject to an existing bond at the date of the exercise of the option the rights acquired by the exercise of such option shall be subject to such bond.

Prospecting Contracts.

84.

(Section 84 amended by section 36 of Act 43 of 1957)

(Section 84 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

85.

(Section 85 repealed by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

CHAPTER VII ANTENUPTIAL CONTRACTS

86. Antenuptial contracts to be registered

An antenuptial contract executed before and not registered at the commencement of this Act or executed after the commencement of this Act, shall be registered in the manner and within the time mentioned in section *eighty-seven*, and unless so registered shall be of no force or effect as against any person who is not a party thereto.

87. Manner and time of registration of antenuptial contracts

- (1) An antenuptial contract executed in the Republic shall be attested by a notary and shall be registered in a deeds registry within three months after the date of its execution or within such extended period as the court may on application allow.
- (2) An antenuptial contract executed outside the Republic shall be attested by a notary or otherwise be entered into in accordance with the law of the place of its execution, and shall be registered in a deeds registry within six months after the date of its execution or within such extended period as the court may on application allow.

- (3) Registration of an antenuptial contract in any one deeds registry in the manner prescribed in this section shall be effective as registration for the whole Republic: Provided that if any transaction in connection with which evidence of such contract is necessary takes place in a deeds registry other than that in which such contract has been registered, a copy of such contract certified by the registrar of the place of registration or a notary public shall be recorded and filed in such first-mentioned deeds registry.

- (4)

(Section 87(4) deleted by section 11 of Act 3 of 1972)

(Section 87 amended by section 3 of Act 15 of 1953)

(Section 87 amended by section 37 of Act 43 of 1957)

(Section 87 substituted by section 30 of Act 87 of 1965)

88. Postnuptial execution of antenuptial agreement

Notwithstanding the provisions of sections *eighty-six* and *eighty-seven* the court may, subject to such conditions as it may deem desirable, authorize postnuptial execution of a notarial contract having the effect of an antenuptial contract, if the terms thereof were agreed upon between the intended spouses before the marriage, and may order the registration, within a specified period, of any contract so executed.

89. Registration of postnuptial contracts

- (1) The provisions of sections 86 and 87 shall *mutatis mutandis* apply in respect of -
- (a) an order under section 20 of the Matrimonial Property Act, 1984, as if that order were a notarial deed; and
- (b) a contract in terms of section 21 of the Matrimonial Property Act, 1984.
- (Section 89(1)(b) substituted by section 8(a) of Act 11 of 1996)*
- (2) Where a contract in terms of section 21 of the Matrimonial Property Act, 1984, replaces an existing antenuptial contract, the contract to be registered shall be accompanied by the existing contract or a certified copy thereof.
- (Section 89(2) substituted by section 8(b) of Act 11 of 1996)*
- (3) Upon the registration of a contract contemplated in section 21 of the Matrimonial Property Act, 1984, the existing antenuptial contract, if any, shall be cancelled or endorsed appropriately, as the case may be, and for that purpose the registrar shall notify the registrar of the registry where the existing contract is registered and every registrar in whose registry a copy thereof is filed in terms of section 87(3).

(Section 89(3) substituted by section 8(b) of Act 11 of 1996)

(Section 89 repealed by section 15 of Act 50 of 1956)

(Section 89 inserted by section 32 of Act 88 of 1984)

(Section 89 substituted by section 6 of Act 3 of 1988)

CHAPTER VIII. MISCELLANEOUS.

90. Cancellation of registration on lapse of certain registered rights

(1) If it is expressly provided in-

- (a) a registered lease of land; or
- (b) a registered deed creating or evidencing a servitude,

that it shall lapse upon failure to make regularly any periodical payments mentioned therein, the registrar shall upon written application accompanied by an affidavit by the lessor or grantor of the registered right (as the case may be) that the said periodical payments have not been duly made, cancel the registration of the lease or servitude:

(Words preceding the proviso to section 90(1) substituted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

Provided that-

- (i) if the address of the lessee or grantee is stated in the registered document, or the address or any change thereof has been notified to the registrar, notice shall be given to such lessee or grantee by the applicant by prepaid registered letter that cancellation of the registration of the document is sought on the ground of failure to make the periodical payments mentioned therein, and that unless written objection to the cancellation specifying the grounds of objection is lodged with the registrar within one month, if the address is in the Republic, or within three months or such further period as the registrar may in special circumstances determine, if the address is outside the Republic, application will be made to the registrar for cancellation of the registration of the said document;
- (ii) if the address of the lessee or grantee is not stated in the document or has not been notified to the registrar as aforesaid, the applicant shall publish the notice aforesaid once in the *Gazette* and twice in a newspaper published in the division or district in which the land in question is situated (or if there be no such newspaper then in any newspaper circulating in such division or district) and in a newspaper (to be indicated by the registrar) circulating in the division or district of the lessee's or grantee's last-known address, which shall be disclosed by the applicant in an affidavit;

- (iii) if any objection is lodged which, in the registrar's opinion, discloses reasonable ground for refusing cancellation of the registration, he shall not cancel it until the objection is withdrawn or falls away or cancellation is ordered by the court;
- (iv) if any of the rights to be cancelled are mortgaged, notice in writing shall be given by the applicant by prepaid registered letter to the mortgagee of the intention to cancel such rights, before the cancellation is effected.

(2) For the purposes of this section the lessor or grantor means-

- (a) in the case of a registered lease of land or a registered deed of servitude, the person who from the records in the deeds registry appears to be the owner of the land concerned; and
- (b)

(Section 90(2)(b) repealed by section 53 of Act 24 of 2003)

91. Transfer and cession not to be passed as security

No transfer of land and no cession of any registered lease or sub-lease or other real right in land except a mortgage made as security for a debt or other obligation shall be attested by any registrar or registered in any deeds registry.

(Section 91 amended by section 5 of Act 80 of 1964 with effect from 1 September 1937)

92. Taxes and transfer duty to be paid before transfer of land

- (1) No deed of grant or transfer of land shall be registered unless accompanied by a receipt or certificate of a competent public revenue officer that the taxes, duties, fees and quitrent (if any) payable to the Government or any provincial administration on the property to be granted or transferred have been paid.
- (2) If land or any real right in land has been settled upon or donated to an intended spouse in terms of an antenuptial contract, no transfer or cession of such land or right by the donor to any person other than the donee and no mortgage thereof by the donor shall be executed, attested or registered by the registrar unless the transfer duty (if any) payable on the settlement or donation has been paid.

93. Registration of change of name.

- (1) If any person or partnership whose name appears in any registered deed or other document has changed his or its name, the registrar shall, upon written application by that person or partnership accompanied by proof of the change of name, and if he is satisfied that no change of legal personality is implied in such change of name, endorse on the said deed or other document that the name of the person or partnership has been changed to the name stated in the application: Provided that –

- (a) if it appears from such deed or other document that any other person is affected by such change of name, such other person shall (save for the registration of a change of name of a company or close corporation) consent in writing to the aforesaid endorsement;

(Section 93(1)(a) substituted by section 6 of Act 34 of 2013)

- (b) the application shall (save for the registration of a change of name of a company or close corporation) be accompanied by any other operative deed registered in the same registry in which the applicant's old name appears as a party thereto other than as transferor or cedent; and

(Section 93(1)(b) substituted by section 6 of Act 34 of 2013)

- (c) a person-

- (i) who assumes his or her spouse's surname or resumes his or her former surname; or
- (ii) who, whether in a civil union, married or divorced, or a widow, adds to the surname which he or she assumed after the union or marriage, any surname which he or she bore at any prior time,

shall not be obliged to record such assumption or resumption of surname against any registered deed or other document to enable him or her to deal with land or a real right in land held by him or her under such deed or other document.

(Section 93(1)(c) substituted by section 6 of Act 34 of 2013)

(Section 93(1) amended by section 36 of Act 43 of 1962)

(Section 93(1) substituted by section 21(1) of Act 27 of 1982)

- (2) No change in the name of any immovable property shall be recorded in a deeds registry except if required by the registrar and the Surveyor-General in order to record a new designation as a result of the introduction of a system of land numbering where no such system previously existed.

(Section 93(2) amended by section 38 of Act 43 of 1957)

- (3)

- (a) Notwithstanding the provisions of subsection (2), any owner of immovable property may in writing request the Minister to change the name of such immovable property which appears in any registered deed on the ground that such name may be offensive because of the racial connotation thereof.
- (b) If the Minister is satisfied that such name may be offensive because of the racial connotation thereof, he may order the Surveyor-General to effect the change of name in the relevant registers and documents and on the relevant diagrams.

- (c) The Surveyor-General shall notify the registrar concerned of any change of name effected under paragraph (b), and the registrar shall thereupon amend the relative deeds and registers in his deeds registry.

(Section 93(3) added by section 21 of Act 14 of 1993)

94.

(Section 94 repealed by section 2 of Act 132 of 1993)

95. Attestation of powers of attorney executed in the Republic.

- (1) Any power of attorney executed within the Republic shall, if it purports to give authority to pass, cede, amend or cancel a deed capable of being registered or to perform any act proper to be performed in a deeds registry, be attested either by two witnesses above the age of fourteen years, competent to give evidence in any court of law in the Republic, or by a magistrate, justice of the peace, commissioner of oaths or notary public, duly described as such: Provided that no person shall be competent to attest any power of attorney under which he is appointed as an agent or derives any benefit.

- (2)

(Section 95(2) repealed by section 67 of Act 16 of 1967)

96. Execution of deeds by prospective owners.

If any deed or document required to be executed by the owner of immovable property has been executed by a person who has acquired the right to receive transfer or cession of such property, such deed or document shall, upon the person aforesaid receiving transfer or cession of such property, for the purposes of this Act be deemed to have been executed by the owner of such property.

97. Notice to registrar of application to court.

- (1) Before any application is made to the court for authority or an order involving the performance of any act in a deeds registry, the applicant shall give the registrar concerned at least seven days' notice before the hearing of such application and such registrar may submit to the court such report thereon as he may deem desirable to make.

(Section 97 renumbered to 97(1) by section 39 of Act 43 of 1957)

- (2) Subject to notice in terms of sub-section (1) being given to the registrar concerned, any order made by a court having jurisdiction over a person in respect of that person's property or rights to property situate in another province shall be given effect to by the registrar of such other province without the necessity of having such order confirmed by the court of the province in which the property is situate.

(Section 97(2) added by section 39 of Act 43 of 1957)

98. Substituted copy of lost deed supersedes original which must be surrendered on recovery

- (1) If a copy of a registered deed or other document has been issued, in manner prescribed by regulation, in substitution of a deed or other document which has been lost or is believed to have been destroyed, the original deed or other document, if still in existence, shall thereupon become void.
- (2) If a deed or other document which has become void as aforesaid, comes into the possession or custody of any person who knows that a copy has been issued in substitution thereof, he shall forthwith deliver or transmit such deed or other document to the registrar concerned.

99. Exemption from liability for acts or omissions in deeds registry

No act or omission of any registrar or of any officer employed in a deeds registry shall render the Government or such registrar or officer liable for damage sustained by any person in consequence of such act or omission: Provided that if such act or omission is *mala fide* or if such registrar or officer has not exercised reasonable care and diligence in carrying out his or her duties in connection with such act or omission, the Government shall be liable for the damage aforesaid: Provided further that the registrar or officer guilty of such act or omission shall be liable to make good any loss or damage resulting therefrom to the Government if such act or omission was *mala fide*: Provided further that if such act or omission was *mala fide*, such registrar or officer and every person that was part of a collusion, is guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.

(Section 99 substituted by section 10 of Act 20 of 2024)

99A. Unauthorised execution or attestation of deed

Any person who prepares a deed or document or who executes or attests a deed and who is not authorized in terms of this Act or any other Act to perform such functions, is guilty of an offence and liable on conviction to a fine or to imprisonment or to both such fine and imprisonment.

(Section 99A inserted by section 11 of Act 20 of 2024)

100. Formal defects

No act in connection with any registration in a deeds registry shall be invalidated by any formal defect, whether such defect occurs in any deed passed or registered, or in any document upon the authority of which any such deed has been passed or registered or which is required to be produced in connection with the passing or registration of such deed, unless a substantial injustice has by such act been done which in the opinion of the court cannot be remedied by any order of the court.

101. Special provisions relating to Vryburg deeds registry

- (1) The practice prevailing prior to the commencement of the Deeds Registries Act, 1918, in the deeds registry at Vryburg of transferring or mortgaging land held under a certificate of ownership issued by the administrator of the territory known as British Bechuanaland prior to its annexation to the Colony of the

Cape of Good Hope, and which was declared by that Act to be legal and of effect, shall continue to be legal and of effect: Provided that—

- (a) the provisions of this Act shall apply in respect of any transfer, partition transfer, certificate of title, mortgage or other deed sought to be registered in respect of any land so held;
 - (b) no transfer of or other form of title to or mortgage of any defined portion of a piece of land so held shall be registered unless the surveyor-general concerned has certified that the boundaries of such piece of land are correctly represented on the diagram thereof;
 - (c) if the surveyor-general is unable to certify as aforesaid the provisions of sections *forty*, *forty-one* and *forty-four* shall *mutatis mutandis* apply, notwithstanding anything to the contrary in any other law contained.
- (2) The provisional registration in the deeds registry at Vryburg of any cession or assignment of rights to unascertained or unsurveyed land, prescribed by Government Notice (British Bechuanaland) of the thirteenth day of November, 1886, shall continue to be of force in respect of land to which a right of ownership was acquired prior to the annexation of British Bechuanaland to the Colony of the Cape of Good Hope, until such time as a grant of such land has been registered.

102. Definitions

- (1) In this Act unless inconsistent with the context-

“attorney” means, in relation to a document, an attorney as defined in the Legal Practice Act and includes in respect of transactions with State Land, an attorney as defined in the Legal Practice Act in the employ of the Department of Agriculture, Land Reform and Rural Development;

(Definition of “attorney” inserted by section 12(a) of Act 20 of 2024)

“conveyancer” means, in respect of any deeds registry, a conveyancer as defined in the Legal Practice Act, and practicing as such in the Republic, and includes a person admitted as an attorney in terms of the relevant Transkeian legislation and physically practicing as such within the area of the former Republic of Transkei on or before the date of commencement of Proclamation R.9 of 1997 and further includes, in respect of transactions with State Land, a conveyancer as defined in the Legal Practice Act, in the employ of the Department of Agriculture, Land Reform and Rural Development.

(Definition of “conveyancer” substituted by section 12(a) of Act 3 of 1972)

(Definition of “conveyancer” substituted by section 22(a) of Act 14 of 1993)

(Definition of “conveyancer” substituted by Schedule 1 of Proc. R9 of 1997)

(Definition of “conveyancer” substituted by section 12(b) of Act 20 of 2024)

“court” or **“the court”** means the High Court having jurisdiction, and includes any judge thereof;

(Definition of “court” substituted by section 10 of Act 93 of 1998)

“deeds registry” means-

- (a) when used in relation to immovable property, the deeds registry which serves the area in which that property is situate;
- (b) when used in relation to any deed or other document, any deeds registry in the Republic wherein that deed or other document is registered or registrable; or
- (c) when used in relation to a registrar, the deeds registry of which he or she is in charge;

(Definition of “deeds registry” substituted by section 7 of Act 34 of 2013)

“diagram” means a diagram which has been signed by a person recognized by law as a land surveyor, and which has been approved or certified by a surveyor-general or other officer empowered under any law so to approve or certify a diagram and- includes a diagram or a copy thereof prepared in a surveyor-general's office and approved or certified as aforesaid, or a diagram which has at any time prior to the commencement of this Act been accepted for registration in a deeds registry or surveyor-general's office;

“Electronic Deeds Registration Systems Act” means the Electronic Deeds Registration Systems Act, 2019 (Act No. 19 of 2019);

(Definition of “Electronic Deeds Registration Systems Act” inserted by section 12(c) of Act 20 of 2024)

“erf” means every piece of land registered as an erf, lot, plot or stand in a deeds registry, and includes every defined portion, not intended to be a public place, of a piece of land laid out as a township, whether or not it has been formally recognized, approved or proclaimed as such;

“executor” includes any representative recognized by law of a deceased owner;

(Definition of “executor” inserted by section 9(a) of Act 11 of 1996)

“general plan” means a plan which represents the relative positions and dimensions of two or more pieces of land and has been signed by a person recognized by law as a land surveyor, and which has been approved, provisionally approved or certified as a general plan by a surveyor-general or other officer empowered under any law so to approve, provisionally approve or certify a general plan, and includes a general plan or copy thereof prepared in a surveyor-general's office and approved, provisionally approved or certified as aforesaid, or a general plan which has at any time, prior to the commencement of this Act, been accepted for registration in a deeds registry or surveyor-general's office;

(Definition of “general plan” substituted by section 32 of Act 113 of 1991)

“Government”

(Definition of “Government” inserted by section 12(b) of Act 3 of 1972)

(Definition of “Government” deleted by section 22(b) of Act 14 of 1993)

“immovable property” includes--

(a)

(Paragraph (a) of the definition of “immovable property” deleted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

(b) any registered lease of land which, when entered into, was for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than ten years;

(c) a registered right of leasehold; and

(d) a registered right of initial ownership contemplated in section 62 of the Development Facilitation Act, 1995;

(Definition of “immovable property” substituted by section 6 of Act 24 of 1989)

(Definition of “immovable property” substituted by section 68 of Act 67 of 1995)

“land” includes a share in land;

(Definition of “land” substituted by section 22(a) of Act 27 of 1982)

“Master” means the Master or Assistant Master of any provincial or local division of the High Court and when used in relation to any particular matter means the Master or Assistant Master who has jurisdiction in respect thereof;

(Definition of “Master” substituted by section 6 of Act 12 of 2010)

“Minister” means the Minister of Agriculture, Land Reform and Rural Development;

(Definition of “Minister” substituted by section 12(c) of Act 3 of 1972)

(Definition of “Minister” substituted by section 22(b) of Act 27 of 1982)

(Definition of “Minister” substituted by section 4(a) of Act 75 of 1987)

(Definition of “Minister” substituted by section 22(c) of Act 14 of 1993)

(Definition of “Minister” substituted by section 6 of Act 12 of 2010)

(Definition of “Minister” substituted by section 12(e) of Act 20 of 2024)

“mortgage bond” means a bond attested by the registrar specially hypothecating immovable property;

“notarial bond” means a bond attested by a notary public hypothecating movable property generally or specially;

“notarial deed” means a deed attested by a notary public, and does not include a document a signature to which is merely authenticated by a notary public, or a copy of a document which has been certified as correct by a notary public;

“notary public” means, in relation to any deed or other document creating or conveying real rights over land, a notary as defined in the Legal Practice Act, and practising as such in the Republic, and includes regarding creating or conveying real rights over State land, a notary, as defined in the Legal Practice Act in the employ of the Department of Agriculture, Land Reform and Rural Development, and in relation to any document executed outside the Republic, a person practising as such in the place where the document is executed;

(Definition of “notary public” substituted by Schedule 1 of Proc. R9 of 1997)

(Definition of “notary public” substituted by section 12(f) of Act 20 of 2024)

“owner” means, in relation to –

- (a) immovable property, subject to paragraph (b), the person registered as the owner or holder thereof and includes the trustee in an insolvent estate, a liquidator or trustee elected or appointed under the Agricultural Credit Act, 1966 (Act No. 28 of 1966), the liquidator of a company or a close corporation which is an owner and the executor of any owner who has died or the representative recognized by law of any owner who is a minor or of unsound mind or is otherwise under disability, provided such trustee, liquidator, executor or legal representative is acting within the authority conferred on him or her by law;

(Paragraph (a) of the definition of “owner” substituted by section 22(d) of Act 14 of 1993)

(Paragraph (a) of the definition of “owner” substituted by section 9(b) of Act 11 of 1996)

- (b) immovable property, real rights in immovable property and notarial bonds-
 - (i) which are registered in the name of both spouses in a marriage in community of property, either one or both of the spouses;
 - (ii) which are registered in the name of only one spouse and which forms part of the joint estate of both spouses in a marriage in community of property, either one or both of the spouses;
 - (iii) which are registered under section 17(1) in the name of both spouses in a marriage in community of property to which the provisions of Chapter III of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), are not applicable, the husband;
 - (iv) which are registered in the name of only one spouse and which form part of the joint estate of both spouses in a marriage in community of property to which the provisions of Chapter III of the Matrimonial Property Act, 1984, are not applicable, the husband;

(Paragraph (b) of the definition of “owner” substituted by section 7 of Act 3 of 1988)

(Paragraph (b) of the definition of “owner” substituted by section 22(d) of Act 14 of 1993)

(Paragraph (b) of the definition of “owner” substituted by section 9(c) of Act 11 of 1996)

(c)

(Paragraph (c) of the definition of “owner” substituted by section 7 of Act 3 of 1988)

(Paragraph (c) of the definition of “owner” deleted by section 9(d) of Act 11 of 1996)

(Definition of “owner” substituted by section 12(d) of Act 3 of 1972)

(Definition of “owner” substituted by section 9(b) of Act 62 of 1984 with effect from 1 July 1985)

(Definition of “owner” substituted by section 4(b) of Act 75 of 1987)

“person”, for the purpose of the registration of immovable trust property only, includes a trust;

(Definition of “person” inserted by section 2 of Act 9 of 2003)

“prescribed” means prescribed by this Act or any regulation;

“prospecting contract”

(Definition of “prospecting contract” deleted by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

“province”

(Definition of “province” inserted by section 12(e) of Act 3 of 1972)

(Definition of “province” deleted by section 22(e) of Act 14 of 1993)

“provincial administration”

(Definition of “provincial administration” inserted by section 12(e) of Act 3 of 1972)

(Definition of “provincial administration” deleted by section 22(e) of Act 14 of 1993)

“real right” includes any right which becomes a real right upon registration;

“registered” means registered in a deeds registry;

“registrar” means a registrar of deeds appointed under this Act, and, when used in relation to any deeds registry means the registrar in charge of that deeds registry; and when used in relation to a document means the registrar in charge of the deeds registry wherein that document is registered or registrable or intended to be used or filed;

“registry duplicate” means the counterpart or copy of a deed consisting of more than one copy which is filed or intended to be filed of record in a deeds registry;

“regulation” means a regulation made under section *ten*;

“Republic”

(Definition of "Republic" inserted by section 12(f) of Act 3 of 1972)

(Definition of "Republic" deleted by section 22(f) of Act 14 of 1993)

"right of leasehold" means a right of leasehold as defined in section 1 of the Black Communities Development Act, 1984, excluding a right in respect of a sectional leasehold unit referred to in that definition;

(Definition of "right of leasehold" inserted by section 9(a) of Act 62 of 1984 with effect from 1 July 1985)

"share" in relation to land, means undivided share;

(Definition of "share" substituted by section 22(c) of Act 27 of 1982)

(Definition of "share" amended by section 53 of Act 24 of 2003 as substituted by section 1 of Act 11 of 2005)

"settlement" means a group of pieces of land or of sub-divisions of a piece of land which are used or intended for use mainly for farming or horticulture, and includes a combination of such groups which is suitable for registration in one register;

"State"

(Definition of "State" inserted by section 12(g) of Act 3 of 1972)

(Definition of "State" deleted by section 22(g) of Act 14 of 1993)

"Territory"

(Definition of "Territory" inserted by section 12(g) of Act 3 of 1972)

(Definition of "Territory" deleted by section 22(g) of Act 14 of 1993)

"the commencement of this Act"

(Definition of "the commencement of this Act" inserted by section 12(g) of Act 3 of 1972)

(Definition of "the commencement of this Act" deleted by section 22(g) of Act 14 of 1993)

"this Act" includes the regulations made under section *ten*;

"township" includes-

- (a) a group of pieces of land, or of sub-divisions of a piece of land, which are combined with public places and are used mainly for residential, industrial or similar purposes, or are intended to be so used;
- (b) any combination of such groups which is suitable for registration in one register;
- (c) any area of land registered or recognized at the commencement of this Act in a deeds registry as a township if a general plan thereof is filed in that deeds registry or in the office of the surveyor-general concerned; and

- (d) any township established, approved, proclaimed or otherwise recognised as such under any law.

(Section 102 renumbered to 102(1) by section 12(h) of Act 3 of 1972)

(2)

(Section 102(2) added by section 12(h) of Act 3 of 1972)

(Section 102(2) deleted by section 22(h) of Act 14 of 1993)

102A.

(Section 102A inserted by section 13 of Act 3 of 1972)

(Section 102A substituted by section 58 of Act 93 of 1976)

(Section 102A repealed by section 23 of Act 14 of 1993)

102B.

(Section 102B inserted by section 7 of Act 24 of 1989)

(Section 102B repealed by Schedule 1 of Proc. R9 of 1997)

103. Repeal of laws.

- (1) The laws specified in the First Schedule to this Act are hereby repealed to the extent set out in the fourth column of that Schedule.
- (2) The President may, by proclamation in the *Gazette*, repeal any provision-
- (a) of Proclamation No. 35 of 1902, Ordinance No. 6 of 1902 or Ordinance No. 6 of 1903 of the Transvaal or of any regulation made thereunder, which is, by virtue of section *one* of Act No. 29 of 1908 of the Transvaal, still in force; or
- (b) of Law No. 15 of 1898 of the Transvaal which is, by virtue of sub-section (1) of section *three* of Act No. 34 of 1908 of the Transvaal, still in force.

104. Short title and commencement of Act.

This Act shall be called the Deeds Registries Act, 1937, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

First Schedule.

LAWS REPEALED.

Province.	No. and year of law	Title or subject of law	Extent of repeal.
Cape of Good Hope.	Placaat dated the 22 nd day of April, 1793	Regulations for the prevention of confusion in the Debt Registry.	The whole

“	Placaat dated the 15 th day of May, 1805	Reform of the Debt Registry	So much as is unrepealed
“	Ordinance No. 27 of 1846.	Ordinance for amending the law relative to conventional hypothecations.	So much as is unrepealed
“	Act No. 25 of 1894	Glen Grey Act, 1894	Section <i>seventeen</i> so far as it requires registration of transfer by the registrar of deeds at Cape Town only.
Natal	Law No. 22 of 1863.	To prevent community of goods attaching to certain marriages and to enable the spouses of such marriages to devise their properties.	Sections <i>two</i> and <i>seven</i> so far as they prescribe the payment of a fee of £ 1 for the registration of a contract, and section <i>seven</i> so far as it permits the registration of non-notarial postnuptial and antenuptial contracts.
“	Law No. 14 of 1882.	To amend Law 22 of 1863.	Sections <i>one</i> and <i>two</i> so far as they permit the registration of non-notarial antenuptial contracts
“	Law No. 19 of 1884.	To amend the law and practice of registration.	Sections <i>three</i> , <i>four</i> and <i>eight</i> .
Transvaal	Act No. 25 of 1909.	Registration of Deeds and Titles Act, 1909.	Section <i>fifty-five</i> so far as it relates to the deeds registries in the Transvaal.
Republic	Act No. 13 of 1918	Deeds Registries Act, 1918.	The whole.
“	Act No. 15 of 1922.	Deeds Registries Act, 1918, Amendment Act, 1922.	The whole.

Second Schedule.

(Schedule 2 amended by section 40 of Act 43 of 1957)

(Schedule 2 amended by section 37 of Act 43 of 1962)

(Schedule 2 amended by section 8 of Act 61 of 1969)

(Schedule 2 amended by section 14 of Act 3 of 1972)

(Schedule 2 amended by section 59 of Act 93 of 1976)

(Section 2 repealed by section 8 of Act 62 of 1984)