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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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KANTOOR VAN DIE STAATSPRESIDENT

No. 374.

10 March 1993

No. 374.

10 Maart 1993

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 14 of 1993: Deeds Registries Amendment Act, 1993.

No. 14 van 1993: Wysigingswet op die Registrasie van Aktes, 1993.



this subsection shall not apply with reference to the authorization of any officer under subsection (1A) or (1B) to act as contemplated in the relevant subsection.”

**Amendment of section 3 of Act 47 of 1937, as substituted by section 2 of Act 87 of 1965 and amended by section 1 of Act 41 of 1977, section 1 of Act 92 of 1978, section 1 of Act 44 of 1980, section 3 of Act 27 of 1982 and section 28 of Act 88 of 1984** 5

2. Section 3 of the principal Act is hereby amended—

(a) by the substitution in paragraph (f)bis of subsection (1) of the Afrikaans text for the word “grond” of the word “eiendom”; and

(b) by the substitution for paragraph (x) of subsection (1) of the following paragraph: 10

“(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 15 to him of a notice of liquidation or an order of liquidation or sequestration [or in pursuance of the lodging with him by the Master of a return under section ten of the Administration of Estates Act, 1965];”

**Substitution of section 7 of Act 47 of 1937, as substituted by section 3 of Act 87 of 1965** 20

3. The following section is hereby substituted for section 7 of the principal Act:

**“Inspection of records and supply of information**

7. (1) Each registrar shall on conditions prescribed and upon 25 payment of the prescribed fees, permit any [member of the public] person to inspect the public registers and other public records in his registry, other than the index to such registers or records, and 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 [Provided that no such fee shall be payable in respect of any search or inspection made in a deeds registry— 30

(a) by a conveyancer or notary public in connection with any deed which he has been instructed to prepare, attest or lodge in such registry; or 35

(b) by any land surveyor in connection with any survey which he has been instructed to perform; or

(c) by any sheriff or messenger of a magistrate’s court or his deputy, 40 in connection with the exercise of his duties as such].

(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).”

**Amendment of section 9 of Act 47 of 1937, as substituted by section 9 of Act 57 of 1975 and amended by section 4 of Act 27 of 1982** 45

4. Section 9 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) one shall be an officer [in the head office] of the Department of [Community Development] Regional and Land Affairs; and” 50

Amendment of section 10 of Act 47 of 1937, as amended by section 5 of Act 43 of 1962, section 4 of Act 87 of 1965, section 4 of Act 3 of 1972, section 2 of Act 92 of 1978, section 5 of Act 27 of 1982 and section 3 of Act 62 of 1984

5. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (q) of subsection (1) of the following paragraph: 5  
 “(q) [subject to the provisions of the Black Communities Development Act, 1984, and of the regulations made thereunder] the form of applications, deeds and registers which shall be used in connection with the registration of a right of leasehold, and any other real right in respect of land held under such right of leasehold;” and 10
- (b) by the deletion of subsection (7).

Amendment of section 14 of Act 47 of 1937, as amended by section 7 of Act 43 of 1957, section 7 of Act 43 of 1963 and section 6 of Act 87 of 1965 15

6. Section 14 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for subparagraph (iii) of paragraph (b) of the following subparagraph: 20  
 “(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 [administrator] 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;” 25
- (b) by the substitution in subsection (1) for subparagraph (vii) of paragraph (b) of the following subparagraph: 30  
 “(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 [and a Commissioner’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.”; and 35
- (c) by the substitution for subsection (2) of the following subsection: 40  
 “(2) In any transfer or cession in terms of any proviso to subsection (1)(b), there shall be paid the transfer duty [and death duties] which would have been payable had the property concerned been transferred or ceded to each person successively becoming entitled thereto.” 45

Amendment of section 15A of Act 47 of 1937, as inserted by section 6 of Act 27 of 1982 45

7. Section 15A of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer— 50  
 (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 [prescribed by regulation] for registration or filing in a deeds registry.” 55

**Repeal of section 16B of Act 47 of 1937**

8. Section 16B of the principal Act is hereby repealed.

**Amendment of section 17 of Act 47 of 1937, as substituted by section 29 of Act 88 of 1984 and amended by section 1 of Act 75 of 1987**

9. Section 17 of the principal Act is hereby amended— 5
- (a) by the substitution in subsection (3) for the word “transport” of the word “transfer”; and
- (b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
- “(b) in a case where a right to any mineral or minerals with regard to land referred to in section **[2(1) of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975)] 20(1) of the Minerals Act, 1991 (Act No. 50 of 1991)**, is concerned, to constitute an act to which a provision of the said section **[2(1)] 20(1)** is applicable.” 10 15

**Amendment of section 18 of Act 47 of 1937, as amended by section 6 of Act 3 of 1972 and section 8 of Act 27 of 1982**

10. Section 18 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(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 **[Community Development] Public Works** or an officer of the State authorized by him **[or, in the case of the Territory, by the Administrator of the Territory]**, accompanied by the diagram of the land in duplicate, 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.” 20 25

**Amendment of section 33 of Act 47 of 1937, as substituted by section 15 of Act 43 of 1962 and amended by section 13 of Act 87 of 1965**

11. Section 33 of the principal Act is hereby amended by the deletion of subsection (2). 30

**Amendment of section 42 of Act 47 of 1937, as amended by section 17 of Act 43 of 1962, section 7 of Act 3 of 1972 and section 12 of Act 27 of 1982**

12. Section 42 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words following upon paragraph (d) of the following words: 35
- “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 **[Community Development] Public Works [or, in the case of the Territory, of the Administrator of the Territory]** 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.”; and 40 45
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) The Minister of **[Community Development] Public Works [or, in the case of the Territory, the Administrator of the Territory]** may agree with the owner as to the aforesaid uniform conditions of 50

tenure or uniform rights in favour of the State, and may consent to the issue of a certificate of uniform title.”.

**Amendment of section 43A of Act 47 of 1937, as inserted by section 13 of Act 27 of 1982**

13. Section 43A of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

“In the event of land reverting to the land register under the provisions of the Sectional Titles Act, [1971 (Act No. 66 of 1971)] 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:”.

**Amendment of section 45 of Act 47 of 1937, as amended by section 20 of Act 43 of 1957, section 19 of Act 43 of 1962, section 31 of Act 88 of 1984 and section 2 of Act 24 of 1989**

14. Section 45 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph:

“(c) the said bond has been passed by the survivor alone or by both spouses who were married in community of property, and 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.”.

**Amendment of section 45bis of Act 47 of 1937, as substituted by section 2 of Act 75 of 1987 and amended by section 3 of Act 24 of 1989**

15. Section 45bis of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) (a) If immovable property referred to in subsection (1) [or (1A)] 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*.”.

**Amendment of section 56 of Act 47 of 1937, as amended by section 26 of Act 43 of 1957, section 23 of Act 87 of 1965, section 8 of Act 3 of 1972 and section 15 of Act 27 of 1982**

16. Section 56 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the proviso to subsection (1) of the following paragraphs, respectively:

“(a) in execution of the judgment of any court (including a magis-



trate's court [and a Commissioner's Court]) by the competent officer;

- (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 a liquidator or trustee elected or appointed under the Agricultural Credit Act, 1966 (Act No. 28 of 1966); or".

**Amendment of section 58 of Act 47 of 1937, as substituted by section 17 of Act 27 of 1982**

17. Section 58 of the principal Act is hereby amended by the deletion in subsection (4) of the word "and" at the end of paragraph (b) and the insertion after paragraph (b) of the following paragraph:

- "(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".

**Amendment of section 62 of Act 47 of 1937, as substituted by section 2 of Act 15 of 1953 and amended by section 29 of Act 43 of 1957 and section 25 of Act 43 of 1962**

18. Section 62 of the principal Act is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection:  
 "(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 [the] 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."; and
- (b) by the substitution for the proviso to subsection (6) of the following provisos:  
 "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 for filing as the registry duplicate], 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."

**Amendment of section 65 of Act 47 of 1937, as amended by section 30 of Act 43 of 1957, section 27 of Act 43 of 1962 and section 19 of Act 27 of 1982**

19. Section 65 of the principal Act is hereby amended by the substitution for subsection (3) of the Afrikaans text of the following subsection:

- "(3) Indien die grond wat deur 'n persoonlike serwituut beswaar moet word, beswaar is met 'n verband of ander saaklike reg waarteen bedoelde persoonlike serwituut sou kon indruis, [beswaar is] moet die verband of ander geregistreerde akte waarkragtens daardie reg besit word aan die registrateur voorgelê word, tesame met 'n geskrewe toestemming van die wettige houer van daardie verband of ander reg tot die registrasie van bedoelde persoonlike serwituut, en, in die geval van 'n verband, vry van die verband."

**Amendment of section 75 of Act 47 of 1937, as amended by section 34 of Act 43 of 1957**

20. Section 75 of the principal Act is hereby amended by the deletion of subsection (2).

**Amendment of section 93 of Act 47 of 1937, as amended by section 38 of Act 43 of 1957, section 36 of Act 43 of 1962 and section 21 of Act 27 of 1982**

21. Section 93 of the principal Act is hereby amended by the addition of the following subsection:

“(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. 10

(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. 15

(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.”. 20

**Amendment of section 102 of Act 47 of 1937, as amended by section 12 of Act 3 of 1972, section 22 of Act 27 of 1982, section 9 of Act 62 of 1984, section 4 of Act 75 of 1987, section 7 of Act 3 of 1988, section 6 of Act 24 of 1989 and section 32 of Act 113 of 1991**

22. Section 102 of the principal Act is hereby amended— 25

(a) by the substitution in subsection (1) for the definition of “conveyancer” of the following definition:

“‘conveyancer’ means, in respect of any deeds registry, a person practising as such in the province within which that deeds registry is situate [and includes every person who at the commencement of the Deeds Registries Act, 1918 (Act No. 13 of 1918), or the Deeds Registries Proclamation, 1920 (Proclamation No. 8 of 1920), of the Territory, was authorized by law to prepare deeds of transfer and mortgage bonds within such province];” 30

(b) by the deletion in subsection (1) of the definition of “Government”; 35

(c) by the substitution in subsection (1) for the definition of “Minister” of the following definition:

“‘Minister’ means the Minister of [Public Works] Regional and Land Affairs;”

(d) by the substitution in subsection (1) for paragraphs (a) and (b) of the definition of “owner” of the following paragraphs, respectively: 40

“(a) immovable property, subject to paragraphs (b) and (c), 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 representative recognized by law of any owner who has died or who is a minor or of unsound mind or is otherwise under disability, provided such trustee, liquidator or legal representative is acting within the authority conferred on him by law; 45

(b) [immovable property] where a right of leasehold [in respect of such property] has been granted to any person and registered in his name, such person, and where such a right of leasehold has been registered in the name of both spouses in a marriage in community of property— 55



- (i) to which the provisions of Chapter III of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), are not applicable, the husband; and
- (ii) to which the provisions of Chapter III of the Matrimonial Property Act, 1984, are applicable, either one of the spouses acting with the written consent, attested by two competent witnesses, of the other spouse; and"; 5
- (e) by the deletion in subsection (1) of the definitions of "province" and "provincial administration";
- (f) by the deletion in subsection (1) of the definition of "Republic"; 10
- (g) by the deletion in subsection (1) of the definitions of "State", "Territory" and "the commencement of this Act"; and
- (h) by the deletion of subsection (2).

**Repeal of section 102A of Act 47 of 1937**

23. Section 102A of the principal Act is hereby repealed. 15

**Repeal of Act 93 of 1976**

24. The Registration of Deeds in Rehoboth Act, 1976, is hereby repealed.

**Short title and commencement**

25. (1) This Act shall be called the Deeds Registries Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 20

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.