

REPUBLIC OF SOUTH AFRICA

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# DEEDS REGISTRIES AMENDMENT BILL

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*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill  
published in Government Gazette No. 28751 of 20 April 2006) (The English text is the  
official text of the Bill)*

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(MINISTER FOR AGRICULTURE AND LAND AFFAIRS)

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## GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

# BILL

To amend the Deeds Registries Act, 1937, so as to provide for the continued registration of registrable transactions concerning rights acquired in terms of or under the Black Administration Act, 1927, or proclamations, regulations or by-laws under the latter Act despite its repeal; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**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, section 28 of Act 88 of 1984, section 2 of Act 14 of 1993, section 9 of Act 122 of 1993, section 68 of Act 67 of 1995, section 1 of Act 11 of 1996, section 110 of Act 28 of 2002, section 53 of Act 24 of 2003 and section 46 of Act 11 of 2004** 5

1. Section 3 of the Deeds Registries Act, 1937 (hereinafter referred to as the principal Act), is hereby amended by the insertion in subsection (1) after paragraph (p) of the following paragraph: 10

“(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)— 15

- (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;” 20

### Insertion of section 16D in Act 47 of 1937

2. The following section is hereby inserted in the principal Act after section 16C:

**“Registration of transfer of rights acquired in terms of or under Black Administration Act, 1927** 25

**16D.** 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.”.

**Short title**

**3.** This Act is called the Deeds Registries Amendment Act, 2006.

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## **MEMORANDUM ON THE OBJECTS OF THE DEEDS REGISTRIES AMENDMENT BILL, 2006**

### **1. BACKGROUND**

- 1.1 Citizens acquired and continue to hold registered or registrable rights in land in terms of various pieces of subordinate legislation under sections 6, 25 and 30 of the Black Administration Act, 1927 (Act No. 38 of 1927), (for example, the Black Areas Townships Regulations, Proclamation R. 293 of 1962) and continue to transact with those rights. Registrations are effected by the various Registrars of Deeds who, during 2004, effected 35 539 registrations.
- 1.2 Those remaining enabling statutory provisions (and thereby the subordinate legislation) will be repealed by no later than 31 July 2006 upon the coming into effect of the Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2005 (Act No. 28 of 2005), which was adopted by Parliament during November 2005, and upon the coming into effect of section 46 of the Communal Land Rights Act, 2004 (Act No. 11 of 2004), read with Part 1 of the Schedule to it.
- 1.3 The Deeds Registries Amendment Bill, 2006 (hereinafter referred to as “the Bill”), is a direct consequence of the adoption by Parliament during November 2005 of the Repeal of the Black Administration Act and Amendment of Certain Laws Bill, 2005. The Repeal of the Black Administration Act and Amendment of Certain Laws Bill, 2005, will repeal regulations made in terms of section 30(2), proclamations made under section 25(1) and by-laws made under section 30A(1) of the Black Administration Act, 1927, that are still in force.
- 1.4 The purpose of the Bill is to confer powers upon the Registrars of Deeds to continue effecting registrations concerning rights originally acquired in terms of the Black Administration Act, 1927, or proclamations, regulations or by-laws under that Act, in terms of the legislation which created that right. The Bill also authorises the transfer of the rights in question in accordance with the latter legislation.

### **2. OBJECTS OF BILL**

- 2.1 Clause 1 of the Bill proposes the insertion of a new paragraph *(p)(bis)* in section 3(1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937). Subparagraph (i) of this paragraph will impose the duty upon the Registrar of Deeds having jurisdiction to continue to register any registerable transaction concerning a right acquired in terms of or under the Black Administration Act, 1927, in terms of the legislation which created that right. In terms of subparagraph (ii) the relevant Registrar of Deeds must also exercise all the other powers and perform all the other duties vested in or imposed upon a Chief Commissioner or registration officer by virtue of the legislation that created the right. In the absence of this clause the Registrars of Deeds will not be able to continue registrations in townships established under section 30(1) of the Black Administration Act, 1927, once section 6 of that Act, as well as the relevant proclamations made under sections 25 and 30 of the Act have effectively been repealed.
- 2.2 In terms of the proposed section 16D of the Deeds Registries Act, 1937, inserted by clause 2 of the Bill, the transfer of a right originally acquired in terms of or under the Black Administration Act, 1927, will continue in accordance with the legislation which created that right. An example of such a right is the right arising out of a deed of grant issued under Chapter 2 of the Black Areas Townships Regulations (Proclamation R 293 of 1962).
- 2.3 Clause 3 of the Bill contains the short title.

**3. CONSULTATION**

Deeds Registries Regulations Board

Law Society of South Africa

South African Local Government Association

Department of Justice and Constitutional Development

Department of Provincial and Local Government

**4. FINANCIAL IMPLICATIONS FOR STATE**

None.

**5. CONSTITUTIONAL IMPLICATIONS**

There are no constitutional implications.

**6. COMMUNICATION IMPLICATIONS**

To be undertaken by the Department of Land Affairs.

**7. PARLIAMENTARY PROCEDURE**

7.1 The State Law Advisers and the Department of Land Affairs are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or section 76 of the Constitution applies.

7.2 The State Law Advisers are of the opinion that it is necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it contains provisions pertaining to customary law or customs of traditional communities.