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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 666.

3 April 1991

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

— 14 of 1991: Mining Titles Registration Amendment Act, 1991.

No. 666.

3 April 1991

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

No. 14 van 1991: Wysigingswet op die Registrasie van Myntitels, 1991.

MINING TITLES REGISTRATION AMENDMENT ACT, 1991

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

To amend the Mining Titles Registration Act, 1967, so as to delete the definition of “registrar”; to replace the expression “registrar” in the said Act by the expression “Director-General”; to empower the Director-General: Mineral and Energy Affairs to appoint or designate one or more officers employed at the Mining Titles Office to do any act or thing which may lawfully be done under the said Act or any other law by the said Director-General; to provide for the proof of certain facts in connection with registrations in terms of the said Act by means of certain certificates; to further regulate the registration of rights in the name of married persons; and to further regulate the endorsement on deeds where marriages are dissolved by divorce, or joint estates are divided, or the matrimonial property system is changed; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 18 March 1991.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 16 of 1967, as amended by section 1 of Act 60 of 1980

1. Section 1 of the Mining Titles Registration Act, 1967 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definition of “registrar”.

Substitution of expression “registrar”

2. The principal Act is hereby amended by the substitution for the expression “registrar” of the expression “Director-General” wherever it occurs in the principal Act.

Amendment of section 3 of Act 16 of 1967

3. Section 3 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) the **[Minister]** Director-General may appoint or designate **[a Deputy Registrar of Mining Titles and]** one or more **[Assistant Registrars of Mining Titles]** officers employed at the Mining Titles Office who shall have the power, subject to the provisions of this Act and to the directions of the **[registrar]** Director-General, to do any act or thing which may lawfully be done under this Act or any other law by the **[Registrar of Mining Titles]** Director-General.”.

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Amendment of section 9 of Act 16 of 1967

4. Section 9 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) If the **[Registrar of Mining Titles]** Director-General is unable to attend any meeting of the board, the **[Deputy Registrar of Mining Titles shall act as chairman of such meeting, or if no such deputy has been appointed or if, having been appointed, he is unable to attend the meeting, an Assistant Registrar of Mining Titles]** most senior available officer employed at the Mining Titles Office shall act as chairman of the meeting.”.

Insertion of section 15A in Act 16 of 1967

5. The following section is hereby inserted in the principal Act after section 15:

“Proof of certain facts in connection with deeds and documents by means of certain certificates

15A. (1) A conveyancer who prepares a deed or other document for the purposes of registration or filing in the Mining Titles Office, 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, and which are prescribed by regulation.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer, who is prescribed by regulation, and who has in accordance with the regulations prepared a deed or other document prescribed by regulation for registration or filing in the Mining Titles Office.

(3) The 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 the registrar to give effect to any order of court or any other notification recorded in the Mining Titles Office in terms of this Act or any other law, and which affects the registration or filing of such deed or other document.”.

Substitution of section 16 of Act 16 of 1967

6. The following section is hereby substituted for section 16 of the principal Act:

“Registration of rights in name of married persons

16. (1) From the commencement of the Mining Titles Registration Amendment Act, 1991, rights and 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.

(2) Every deed executed or attested by the registrar, or attested by a notary public and required to be registered in the Mining Titles Office, and made by or on behalf of or in favour of any person, shall—

- (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;

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- (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. 5
- (3) Where a marriage in community of property has been dissolved by the death of one of the spouses before a right which on transport or cession thereof would have formed part of the joint estate could be transferred or ceded, that right 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 right, deemed to be the joint property of the surviving spouse and of the estate of the deceased spouse. 10
- (4) If a right forming part of a joint estate is registered in the Mining Titles Office in the name of either the husband or the wife, the registrar shall on the written application of the husband or the wife, as the case may be, if he is satisfied as to the relevant facts, make a note on the title deed of that right or, if the title deed can for any reason not be produced to him, only on the registry duplicate thereof, and in the appropriate registers, to the effect that it is a right in respect of which the provisions of section 15 (2) (a) of the Matrimonial Property Act, 1984, apply. 15 20
- (5) A woman married out of community of property, or married in terms of a marriage the legal consequences of which are governed by the law of any other country, shall be assisted by her husband in executing any deed or other document required or permitted to be registered in the Mining Titles Office or required or permitted to be produced in connection with any such deed or document, unless the marital power has been excluded or unless the assistance of the husband is in terms of this Act or on other grounds deemed by the registrar to be unnecessary.”. 25 30

Amendment of section 28 of Act 16 of 1967

7. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If rights are or a bond is registered in the name of the survivor of two spouses who were married in community of property or in the name of the joint estate of such spouses, or in the name of both such spouses, and such survivor has lawfully acquired the share of the deceased spouse in the rights or bond, the registrar shall, subject to the provisions of section 23, on written application by the executor in the estate of the deceased spouse and by such survivor, save where such survivor has already signed as executor, accompanied by such other documents as may be prescribed, endorse on the title deeds evidencing the rights or on the bond that the survivor is entitled to deal with such rights or bond, and thereupon the survivor shall be entitled to deal therewith as if he had taken formal transfer or cession into his own name of the share of the deceased spouse in the rights or bond.”. 35 40 45

Substitution of section 29 of Act 16 of 1967

8. The following section is hereby substituted for section 29 of the principal Act:

“Endorsement of deeds on divorce, division of joint estate, or change of matrimonial property system

29. (1) If rights are or a bond is registered in the Mining Titles Office in the name of one of two spouses or in the name of both spouses who— 50

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- (a) were married in community of property but have been divorced, and the person in whose name such rights are or bond is registered or, where such rights are or bond is registered in the name of both spouses, one of them has lawfully acquired the share of his former spouse in the rights or bond; or 5
- (b) are or were married in community of property, 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), as the case may be, in terms of which the rights are or bond is awarded to the person in whose name it is registered or, where the rights are or bond is registered in the name of both spouses, to one of them, 10
- the registrar may, on written application by that person, accompanied by such documents as the registrar deems necessary, endorse on the title deeds of the rights or on the bond that such person is entitled to deal with such rights or bond, and thereupon such person shall be entitled to deal therewith as if he had taken formal transfer or cession into his name of the share of the former spouse or his spouse, as the case may be, in the rights or bond. 15
- (2) If rights are or a bond is registered in the Mining Titles Office in the name of both spouses who— 20
- (a) were married in community of property but have been divorced, and such rights accrue or bond accrues to both the former spouses in undivided shares in terms of the division of the joint estate; 25
- (b) are or were married in community of property 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), as the case may be, in terms of which the rights are or bond is awarded to both spouses in undivided shares, 30
- 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 rights or on the bond, that such spouses are entitled to deal with such rights 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 rights or bond. 35
- (3) If the rights mentioned in subsection (1) or (2) are hypothecated under a registered mortgage bond, the provisions of section 28 (2), (3) and (4) shall *mutatis mutandis* apply.”.

Short title and commencement

9. (1) This Act shall be called the Mining Titles Registration Amendment Act, 1991. 40

(2) Sections 1, 2, 3 and 4 shall come into operation on the date of commencement of section 66 of the Minerals Act, 1991.