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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1074.

23 Mei 1984

No. 1074.

23 May 1984

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

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

— 62 van 1984: Wysigingswetsontwerp op Registrasie van Aktes, 1984.

No. 62 of 1984: Deeds Registries Amendment Act, 1984.

DEEDS REGISTRIES AMENDMENT ACT, 1984

Act No. 62, 1984

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Deeds Registries Act, 1937, so as to empower the Minister of Community Development to establish deeds registries and sub-deeds registries, and to determine or define the names, situation, respective areas and functions of such offices; to make new provision in relation to the office of chief registrar of deeds; to further regulate and, in relation to certain transfers to local authorities, to extend the transfer of real rights by means of endorsement; to provide for the registration of certain rights of leasehold; to further regulate the transfer of expropriated land and the registration of expropriated servitudes; and to repeal the Second Schedule to the said Act; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 14 May 1984.)*

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

1. Section 1 of the Deeds Registries Act, 1937 (hereinafter referred to as the principal Act), is hereby amended—
 - 5 (a) by the substitution for subsection (1) of the following subsection:

“(1) (a) **[There shall be deeds registries at Cape Town, Kingwilliamstown, Kimberley, Vryburg, Pietermaritzburg, Pretoria, Johannesburg, Bloemfontein and Windhoek, each to serve its respective area as defined in the Second Schedule]** The Minister may from time to time, subject to the laws governing the public service, by notice in the *Gazette*—

 - 15 (i) establish or disestablish deeds registries;
 - (ii) establish or disestablish sub-deeds registries within the area of deeds registries;
 - 20 (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.
 - 25 (b) **[The registration office at Johannesburg, established under section 53 of the Townships Amendment Act, 1908 (Act No. 34 of 1908), of the Transvaal, shall be a deeds registry, but only in connection with the registration of documents relating to immovable property in any township in the**

Amendment of section 1 of Act 47 of 1937, as amended by section 1 of Act 61 of 1969, section 1 of Act 3 of 1972 and section 1 of Act 27 of 1982.

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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.]

Any area defined under paragraph (a) (iii), may—

- (i) consist of different non-adjointing 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).”; and

(b) by the deletion of subsections (2) and (3).

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

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) a chief registrar of deeds, who shall as such be the chairman and executive officer of the deeds registries regulations board mentioned in section *nine* and who shall, subject to the directions of the Minister, exercise such supervision over all the deeds registries as may be necessary in order to bring about uniformity in their practice and procedure [, and who shall also hold office as one of the registrars of deeds mentioned in paragraph (b)];”;

(b) by the substitution in subsection (2) for the words preceding the proviso of the following words:

“No person shall be appointed as chief registrar, registrar, deputy registrar or assistant registrar of deeds after the commencement of section 2 of the Deeds Registries Amendment Act, [1982] 1984, unless he has passed the Public Service Law Examination or an examination deemed by the Commission for Administration to be equivalent thereto and has served in the administrative division of the public service in one or more deeds registries or in the deeds registry established by the Deeds Registry Proclamation, 1939 (Proc-

Amendment of section 2 of Act 47 of 1937, as amended by section 1 of Act 43 of 1957, section 1 of Act 43 of 1962, section 1 of Act 87 of 1965, section 2 of Act 61 of 1969, section 2 of Act 3 of 1972, section 7 of Act 62 of 1973 and section 2 of Act 27 of 1982.

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lamation No. 37. of 1939), of the Administrator of South-West Africa, for a period of not less than seven years"; and

(c) by the substitution for subsection (3) of the following subsection:

"(3) **[Every]** Any person holding, at the commencement of section 2 of the Deeds Registries Amendment Act, **[1982] 1984**—

(a) 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; and

(b) the office of registrar or assistant registrar or deputy registrar of deeds, **[or of Rand townships registrar or assistant Rand townships registrar or deputy Rand townships registrar,]** shall be deemed as from the date of such commencement,

to have been appointed under this section as chief registrar of deeds, or as registrar or assistant registrar or deputy registrar of deeds, as the case may be."

3. Section 10 of the principal Act is hereby amended by the insertion in subsection (1) after paragraph (p) of the following paragraph:

"(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;"

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 and section 5 of Act 27 of 1982.

4. Section 16 of the principal Act is hereby amended by the substitution for the second proviso of the following proviso:

"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 **[subsections (2) and]** subsection (4) (a) of section 31 of this Act shall apply *mutatis mutandis* in respect of such a transfer by endorsement **[pursuant to the expropriation of the land by the State]."**

Amendment of section 16 of Act 47 of 1937, as substituted by section 7 of Act 87 of 1965 and amended by section 7 of Act 27 of 1982.

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

16A. Whenever a right of leasehold has under any provision of the Black Communities Development Act, 1984, been granted to any person, that right shall, subject to the provisions of the said Act, and of the regulations made 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 such person."

Insertion of section 16A in Act 47 of 1937.

"Registration of right of leasehold.

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6. Section 31 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (6) for the words preceding the proviso of the following words:

Amendment of section 31 of Act 47 of 1937, as substituted by section 11 of Act 87 of 1965 and amended by section 3 of Act 61 of 1969, section 95 of Act 63 of 1975 and section 10 of Act 27 of 1982.

5 "Immediately after any land has been expropriated the expropriating authority shall lodge with the registrar a certified copy of the notice of expropriation; [and] 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 endorsed on the office copy of the title deed; and if at any time the original of the title deed is lodged in his registry for any purpose, he shall cause a similar note to be endorsed thereon and a copy of the expropriation plan to be annexed thereto;"

7. Section 32 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

Amendment of section 32 of Act 47 of 1937, as substituted by section 12 of Act 87 of 1965 and amended by section 4 of Act 61 of 1969, section 9 of Act 62 of 1973, section 10 of Act 10 of 1974 and section 95 of Act 63 of 1975.

20 "(5) Immediately after any right of servitude over any land or right to minerals therein has been expropriated, the expropriating authority shall lodge with the registrar a certified copy of the notice of expropriation, [and] two copies of the relevant expropriation plan of the servitude in question, or where the right to minerals in only a portion of the land has been expropriated, two copies of the relevant expropriation plan of such portion, 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 endorsed on the office copy of the title deed of the land which is subject to the servitude or the title under which the right to minerals in question is held, as the case may be, and if at any time the original of the title deed or of such title is lodged in his registry for any purpose, he shall cause a similar note to be endorsed thereon and a copy of the expropriation plan to be annexed thereto."

40 8. The Second Schedule to the principal Act is hereby repealed.

Repeal of Second Schedule to Act 47 of 1937.

9. Section 102 of the principal Act is hereby amended—

Amendment of section 102 of Act 47 of 1937, as amended by section 12 of Act 3 of 1972, and section 22 of Act 27 of 1982.

45 (a) by the insertion in subsection (1) after the definition of "Republic" of the following definition:

"'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;" and

50 (b) by the substitution in the said subsection for the definition of "owner" of the following definition:

"'owner', in relation to immovable property, means—
 (a) 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 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 that] provided such trustee, liquidator or legal representative is

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acting within the authority conferred on him
by law; and

5 (b) where a right of leasehold in respect of such
property has been granted to any person and
registered in his name, such person;".

10. (1) This Act shall be called the Deeds Registries Amend- Short title and
ment Act, 1984, and shall come into operation on a date fixed by commencement.
the State President by proclamation in the *Gazette*.

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