

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 353.

8 Maart 1972.

No. 353.

8th March, 1972.

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:—

No. 3 van 1972: Wysigingswet op Registrasie van Aktes, 1972.

No. 3 of 1972: Deeds Registries Amendment Act, 1972.

## DEEDS REGISTRIES AMENDMENT ACT, 1972.

Act No. 3, 1972

## ACT

To apply the Deeds Registries Act, 1937, to the territory of South-West Africa; to substitute the definition of "Minister" in the said Act; to substitute the words "State President" and "Republic" for the words "Governor-General" and "Union" wherever they occur in the said Act; to repeal certain laws of the territory of South-West Africa; and to provide for incidental matters.

*(English text signed by the State President.)  
(Assented to 2nd March, 1972.)*

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

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

Amendment of section 1 of Act 47 of 1937, as amended by section 1 of Act 61 of 1969.

"(a) There shall be deeds registries at Cape Town, Kingwilliamstown, Kimberley, Vryburg, Pietermaritzburg, Pretoria, Bloemfontein and Windhoek, each to serve its respective area as defined in the Second Schedule."

2. Section 2 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

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 and section 2 of Act 61 of 1969.

"(c) for a deeds registry, if necessary—

(i) one or more deputy registrars of deeds or one or more assistant registrars of deeds or one or more deputy registrars of deeds and one or more assistant registrars of deeds; or

(ii) one or more deputy registrars of Rand townships or one or more assistant registrars of Rand townships or one or more deputy registrars of Rand townships and one or more assistant registrars of Rand townships,

as the case may be, who shall respectively have the power, subject to the regulations, to do any act or thing which may lawfully be done under this Act or any other law by a registrar or by the Rand townships registrar, as the case may be."

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

Amendment of section 9 of Act 47 of 1937.

"(2) The Board shall consist of the registrars of deeds at Cape Town, Pretoria, Bloemfontein, Pietermaritzburg, Kingwilliamstown and Windhoek, the Rand townships registrar, the State Attorney, one member, who shall be appointed by the Minister, of the Survey Regulations Board established under section 8 (1) of the Land Survey

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Act, 1927, and seven conveyancers of whom one shall be appointed by each of the incorporated law societies in the several provinces and two by the Minister who shall be recognized country practitioners.”

4. Section 10 of the principal Act is hereby amended by the addition of the following subsection:

“(7) The regulations made under the Registration of Deeds Proclamation, 1939 (Proclamation No. 37 of 1939), of the Territory, and in force at the commencement of the Deeds Registries Amendment Act, 1972, shall be deemed to have been made under this section in respect of the deeds registry at Windhoek.”

Amendment of section 10 of Act 47 of 1937, as amended by section 5 of Act 43 of 1957, section 5 of Act 43 of 1962 and section 4 of Act 87 of 1965.

5. Section 17 of the principal Act is hereby amended—

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

“(1) All deeds executed or attested by a registrar, or attested by a notary public and required to be registered in a deeds registry, and made by or on behalf of or in favour of women, shall in each case disclose the full name and status of the woman concerned, whether unmarried, married, widowed or divorced, as the case may be. If the woman is married the full name of her husband shall also be disclosed, and if the marriage is governed by the law in force in the Republic or any part thereof it shall be stated whether the marriage was contracted with or without community of property. If the marriage is governed by the law of any other country it shall be stated that the marriage is governed by the law of that country.”;

Amendment of section 17 of Act 47 of 1937, as amended by section 1 of Act 15 of 1953; section 1 of Act 37 of 1953, section 8 of Act 43 of 1957 and section 8 of Act 43 of 1962.

(b) by the substitution for subsection (3) of the following subsection

“(3) Immovable property, bonds or other real rights shall not be transferred or ceded to, or registered in the name of, a woman married in community of property, save where such property, bonds or real rights are by law or by a condition of a bequest or donation excluded from the community or where such property, has been acquired under the provisions of the Agricultural Credit Act, 1966 (Act No. 28 of 1966).”;

(c) by the substitution for subsection (4) of the following subsection

“(4) If immovable property not excluded from the community has at the commencement of this Act been registered in the name of a woman married in community of property which still subsists, her husband to whom she is so married may, unless she has been authorized by an order of court to deal therewith and subject to the provisions of section 1 (1) of the Matrimonial Affairs Act, 1953 (Act No. 37 of 1953), or section 1 (1) of the Matrimonial Affairs Ordinance, 1955 (Ordinance No. 25 of 1955), of the Territory, alone deal with such property.”; and

(d) by the substitution for paragraph (b) of subsection (6) of the following paragraph:

“(b) a woman who at the date of the registration was married out of community of property or whose marriage was at that date governed by the law of

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any country other than the Republic, and who has since been widowed or divorced.”.

6. Section 18 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 18 of Act 47 of 1937.

“(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 Agriculture 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.”.

7. Section 42 of the principal Act is hereby amended—

Amendment of section 42 of Act 47 of 1937, as amended by section 17 of Act 43 of 1962.

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

“(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 Agriculture 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

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

“(3) The Minister of Agriculture or, in the case of the Territory, the Administrator of the Territory, 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.”.

8. Section 56 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph: Amendment of section 56 of Act 47 of 1937, as amended by section 26 of Act 43 of 1957 and section 23 of Act 87 of 1965.

“(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 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”.

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9. Section 58 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection: Amendment of section 58 of Act 47 of 1937.

“(7) 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 or wound up by or under the supervision of the court under the law relating to companies; and
- (c) assets of an applicant under 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.”

10. Section 72 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 72 of Act 47 of 1937, as amended by section 33 of Act 43 of 1957, and section 30 of Act 43 of 1962.

“(2) Whenever the Minister of Agriculture deems it necessary that rights to minerals be separated from the ownership of State land or land granted or transferred subject to a reservation of rights to minerals in favour of the State, he may apply in writing to the registrar for the issue in favour of the Government of a certificate of such rights to minerals as may be set forth in the application, and the registrar shall thereupon issue such a certificate in the form prescribed by regulation and endorse on the title deed of the land in question that such rights and the ownership of the land have been so separated.”

11. Section 87 of the principal Act is hereby amended by the deletion of subsection (4). Amendment of section 87 of Act 47 of 1937, as substituted by section 30 of Act 87 of 1965.

12. Section 102 of the principal Act is hereby amended— Amendment of section 102 of Act 47 of 1937.

- (a) by the substitution 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;”

- (b) by the insertion after the definition of “general plan” of the following definition:

“‘Government’ includes the Administration of the Territory;”

- (c) by the substitution for the definition of “Minister” of the following definition:

“‘Minister’ means the Minister of Justice;”

- (d) by the substitution for the definition of “owner” of the following definition:

“‘owner’ in relation to immovable property means 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

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- 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 such trustee, liquidator or legal representative is acting within the authority conferred on him by law;”;
- (e) by the insertion after the definition of “prospecting contract” of the following definitions:  
 “‘province’ includes the Territory;  
 ‘provincial administration’ includes the Administration of the Territory;”;
- (f) by the insertion after the definition of “regulation” of the following definition:  
 “‘Republic’ includes the Territory;”;
- (g) by the insertion after the definition of “settlement” of the following definitions:  
 “‘State’ includes the Administration of the Territory;  
 ‘Territory’ means the territory of South-West Africa;  
 ‘the commencement of this Act’ means, in relation to the Territory and the deeds registry, and any person holding the office of registrar or assistant registrar of deeds, at Windhoek, the commencement of the Deeds Registries Amendment Act, 1972;”;
- (h) by the addition of the following subsection, whilst the existing section becomes subsection (1):  
 “(2) Any reference in this Act to any provision of the Administration of Estates Act, 1965 (Act No. 66 of 1965), shall, in the application of this Act in the Territory, be construed as a reference to the corresponding provision of the laws relating to estates which may be in force in the Territory from time to time.”.

13. The following section is hereby inserted in the principal Act after section 102:

Insertion of section 102A in Act 47 of 1937.

“Application of this Act to the Territory of South-West Africa.  
 102A. This Act and any amendment thereof, save sections 70 to 74*bis*, inclusive, and sections 84 and 85, shall also apply in the Territory of South-West Africa, including the Eastern Caprivi Zipfel.”.

14. The Second Schedule to the principal Act is hereby amended by the addition of the following paragraph:

Amendment of Second Schedule to Act 47 of 1937, as amended by section 40 of Act 43 of 1957, section 37 of Act 43 of 1962 and section 8 of Act 61 of 1969.

“(i) by the deeds registry at Windhoek, the Territory of South-West Africa.”.

15. The principal Act is hereby amended by the substitution for the words “Governor-General” and “Union”, wherever they occur, of the words “State President” and “Republic” respectively.

Substitution of “Governor-General” and “Union” in Act 47 of 1937.

16. (1) Subject to the provisions of subsection (2), the laws of the territory of South-West Africa mentioned in the Schedule, are hereby repealed to the extent set out in the third column of the Schedule.

Repeal of laws and savings.

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- (2) The provisions of this Act—
- (a) shall not apply to the registration in the Mining Titles Office at Windhoek of documents relating to rights granted or acquired under the Mines, Works and Minerals Ordinance, 1968 (Ordinance No. 20 of 1968), of the territory of South-West Africa, or any other law relating to mines or minerals and for the registration of which in the deeds registry mentioned in section 1 of the Deeds Registry Proclamation, 1939 (Proclamation No. 37 of 1939), of that Territory or in the said Mining Titles Office provision is made in that Proclamation or in the State President's Mining Titles Registration Proclamation, 1969 (Proclamation No. R.90 of 1969) or in any other law;
- (b) shall not affect any power, function or duty of the Registrar of Mining Titles appointed in terms of the said Mining Titles Registration Proclamation, 1969, and the provisions of the said Mining Titles Registration Proclamation, 1969, shall be administered as if this Act had not been enacted.
- (3) This section shall also apply in the Eastern Caprivi Zipfel.

17. This Act shall be called the Deeds Registries Amendment Act, 1972, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.

## Schedule.

## LAWS REPEALED

No. and Year of Law	Short Title	Extent of Repeal
Proclamation No. 37 of 1939.	Deeds Registry Proclamation, 1939 . . .	The whole.
Ordinance No. 31 of 1952 .	Deeds Registry Amendment Ordinance, 1952	The whole.
Ordinance No. 19 of 1958 .	Deeds Registry Amendment Ordinance, 1958	The whole.
Ordinance No. 32 of 1963 .	Deeds Registry Amendment Ordinance, 1963	The whole.
Ordinance No. 11 of 1964 .	Deeds Registry Amendment Ordinance, 1964	The whole.
Ordinance No. 17 of 1967 .	Deeds Registry Amendment Ordinance, 1967	The whole.
Ordinance No. 20 of 1968 .	Mines, Works and Minerals Ordinance, 1968	Sections 96 to 100, inclusive.