

No. 87, 1965.]

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ACT

To amend the Deeds Registries Act, 1937.

(Afrikaans text signed by the State President.)
(Assented to 18th June, 1965.)

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

Amendment of section 2 of Act 47 of 1937, as amended by section 1 of Act 43 of 1957 and section 1 of Act 43 of 1962.

1. Section *two* of the Deeds Registries Act, 1937 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for sub-section (1) of the following sub-section:

“(1) Subject to the laws governing the public service there shall be appointed—

(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*, 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) in respect of each deeds registry, a registrar of deeds or a registrar of Rand townships, as the case may be, who shall be in charge of the deeds registry in respect of which he has been appointed;

(c) for each deeds registry, one or more deputy registrars of deeds or one or more assistant registrars of deeds or Rand townships, as the case may be, or one or more deputy registrars of deeds and one or more assistant registrars of deeds, 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 of deeds, or by the Rand townships registrar, as the case may be.”; and

(b) by the substitution for sub-section (1)*bis* of the following sub-section:

“(2) No person shall be appointed as registrar, deputy registrar or assistant registrar of deeds after the commencement of the Deeds Registries Amendment Act, 1957, unless he has passed the Public Service Law Examination or an examination deemed by the Public Service Commission 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 (Proclamation No. 37 of 1939), of the Administrator of South-West Africa, or in one or more deeds registries established under this Act and in the lastmentioned deeds registry for a period of not less than seven years: Provided

that this sub-section shall not apply with reference to the appointment as registrar of deeds of any person who held office as registrar of deeds in terms of the said proclamation or as an assistant registrar of deeds at the commencement of the said Act or with reference to the appointment of the Rand townships registrar or assistant Rand townships registrar.”.

Substitution of section 3 of Act 47 of 1937, as amended by section 14 of Act 50 of 1956, section 2 of Act 43 of 1957 and section 2 of Act 43 of 1962.

2. The following section is hereby substituted for section *three* of the principal Act:

“Duties of registrar. 3. (1) The registrar shall, subject to the provisions of this Act—

- (a) take charge of and, except as provided in sub-section (2), preserve all records which were prior to the commencement of this Act, or may become after such commencement, records of any deeds registry in respect of which he has been appointed: Provided that the registrar may destroy or otherwise dispose of any record as prescribed which has been cancelled in terms of this sub-section;
- (b) examine all deeds or other documents submitted to him for execution or registration, and after examination reject any such deed or other document the execution or registration of which is not permitted by this Act or by any other law, or to the execution or registration of which any other valid objection exists: Provided that such deed or document need not be examined in its entirety before being rejected;
- (c) register grants or leases of land lawfully issued by the Government or grants issued by any other competent authority, and register amendments, renewals and cancellations of such leases, and releases of any part of the property leased;
- (d) attest or execute and register deeds of transfer of land, and execute and register certificates of title to land;
- (e) attest and register mortgage bonds;
- (f) register cessions (including cessions made as security) of registered mortgage bonds, and register cancellations of such cessions if made as security;
- (g) register cancellations of registered mortgage bonds, releases of any part of the property hypothecated thereby or of all such property if the debt is further secured by a collateral bond, releases of any joint debtor or of any surety in respect of any such bond, the substitution of another person for a debtor in respect of any such bond, reductions of cover in respect of any such bond intended to secure future debts, and part payments of the capital amount due in respect of any such bond other than a bond intended to secure future debts;
- (h) register waivers of preference in respect of registered mortgage bonds and notarial bonds with regard to the whole or any part of the property hypothecated thereby in favour of other such bonds whether registered or about to be registered;
- (i) register waivers of preference in respect of registered real rights in land, in favour of mortgage bonds, whether registered or about to be registered;
- (j) register notarial bonds, and cancellations and cessions thereof (including cessions made as security) and cancellations of such cessions if made as security;
- (j)bis register releases of any part of the property hypothecated by any registered notarial bond

or of all such property if the debt is further secured by a collateral bond, releases of any joint debtor or of any surety in respect of any such bond, reductions of cover in respect of any such bond intended to secure future debts, and part payments in respect of the capital amount due in respect of any such bond other than a bond intended to secure future debts;

- (k) register ante-nuptial contracts, and register such notarial deeds of donation (including a donation to be held in trust), and such other notarial deeds having reference to persons and property within the area served by the registry in question as are required or permitted by law to be registered;
- (l) register grants or leases lawfully issued by the Government, of rights to minerals;
- (m) register notarial cessions, leases or sub-leases of rights to minerals and notarial variations of such cessions, leases or sub-leases, notarial cessions of such registered leases or sub-leases, notarial cancellations of such leases or sub-leases, certificates of registration of such rights, and reservations of such rights made in grants or transfers of land, and notarial variations of such reservations;
- (n) register on the title deeds of the land and of the rights to minerals affected, and in the relative registers, the issue of mynpachtbrieven;
- (o) register any servitude, whether personal or praedial, and record the modification or extinction of any registered servitude;
- (p) register notarial leases, sub-leases, and cessions of leases or of sub-leases, of land, and notarial cessions of underhand leases or sub-leases of land, which have been registered prior to the commencement of this Act, and notarial amendments of such leases and sub-leases, and notarial renewals and notarial cancellations of such leases and sub-leases and notarial releases of any part of the property leased;
- (q) register notarial prospecting contracts and notarial cessions thereof and cancellations of such contracts;
- (r) register any real right, not specifically referred to in this sub-section, and any cession, modification or extinction of any such registered right;
- (s) register against any registered mortgage or notarial bond any agreement entered into by the mortgagor and the holder of that bond, whereby any terms of that bond have been varied;
- (t) register general plans of erven or of sub-divisions of land, open registers of the erven or sub-divisions of land shown on such general plans, and record in such registers the conditions upon which the erven or sub-divisions have been laid out or established;
- (u) register powers of attorney whereby the agents named therein are authorized to act generally for the principals granting such powers, or to carry out a series of acts or transactions registrable in a deeds registry, and register copies of such powers registered in another deeds registry, which have been certified by the registrar thereof, or which have been issued for the purpose of being acted upon in a deeds registry by a Master or registrar of the Supreme Court

of South Africa or a registrar of mining titles or a mining commissioner in his capacity as a registration officer;

- (v) make, in connection with the registration of any deed or other document, or in compliance with the requirements of any law, such endorsements on any registered deed or other document as may be necessary to give effect to such registration or to the objects of such law;
- (w) record all notices, returns, statements, or orders of court lodged with him in terms of any law;
- (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 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;
- (y) keep the registers prescribed under this Act and any other law; and make such entries therein as are necessary for the purpose of carrying out the provisions of this Act or such other law and of maintaining an efficient system of registration calculated to afford security of title and ready reference to any registered deed;

and generally the registrar shall discharge all such duties as by law may or are to be discharged by a registrar of deeds or as are necessary to give effect to the provisions of this Act: Provided that nothing in this Act contained shall be construed as imposing upon the Rand townships registrar the duty of registering any deed or other document which he would not have registered if this Act had not been passed.

- (2) (a) If the registrar concerned is satisfied that any record referred to in paragraph (a) of sub-section (1) has become so dilapidated or has deteriorated to such an extent that it requires urgent restoration for the preservation thereof, he may transfer such record to the Director of Archives for restoration and preservation.
- (b) The Director of Archives shall—
 - (i) forthwith furnish the registrar concerned with so many photographic copies of any record received for restoration and preservation as the registrar may require;
 - (ii) as soon as any record has been restored for preservation, furnish the registrar concerned with so many photographic copies thereof as the registrar may require;
 - (iii) preserve any record restored under this sub-section in the archives depot at the seat of the provincial administration within the territorial limits of which the deeds registry in question is situate.
- (c) Any photographic copy (certified by the Director of Archives or any person designated by him for the purpose) of any record furnished under this sub-section by the Director of Archives to a registrar of deeds shall, for the purposes of a deeds registry, be deemed to be the original record."

Substitution of section 7 of Act 47 of 1937, as amended by section 4 of Act 43 of 1957.

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

"Inspection of records and supply of information.

7. Each registrar shall on conditions prescribed and upon payment of the prescribed fees, permit any member of the public 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—

- (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
- (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, in connection with the exercise of his duties as such."

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

4. Section *ten* of the principal Act is hereby amended—

- (a) by the insertion after paragraph (r) of sub-section (1) of the following paragraph:

"(r)*bis* the records which may be destroyed in terms of the proviso to paragraph (a) of sub-section (1) of section *three*;" and

- (b) by the substitution for sub-sections (4) and (5) of the following sub-sections:

"(4) In making any regulation prescribing the fees and charges of conveyancers in connection with the preparation and passing of deeds the board may prescribe separate fees for the preparation and the passing of deeds in the event of the deeds being prepared by one conveyancer and passed by another.

(5) Notwithstanding anything contained in section *one* of Act No. 29 of 1908 and sub-section (1) of section *three* of Act No. 34 of 1908, both of the Transvaal, the State President may, by proclamation in the *Gazette*, declare the whole or any part of the regulations published under Government Notice No. 1498 of 1918, as amended by Government Notice No. 1631 of 1922, to be no longer of force and effect, and thereupon the regulations board may make in lieu of those regulations new regulations in relation to the matters referred to in sub-section (1) of this section."

Amendment of section 13 of Act 47 of 1937, as substituted by section 6 of Act 43 of 1957.

5. Section *thirteen* of the principal Act is hereby amended by the addition of the following sub-section:

"(4) Any deed, document or endorsement which under this section is required to be signed by a registrar, may, if the registrar is not available to sign such deed, document or endorsement, be signed by the successor in office of the registrar or by any person acting in the place of the registrar, whereupon any reference in sub-section (1) or (3) to the signature of the registrar shall be deemed to include a reference to the signature of such successor or person acting as registrar, as the case may be."

Amendment of section 14 of Act 47 of 1937, as amended by section 7 of Act 43 of 1957 and section 7 of Act 43 of 1962.

6. Section *fourteen* of the principal Act is hereby amended by the substitution for paragraph (b) of sub-section (1) of the following paragraph:

"(b) it shall not be lawful to depart from any such sequence in recording in any deeds registry any change in the ownership in such land or of such real right: Provided that—

- (i) if the property has passed in terms of a will or through intestate succession from a deceased person to his descendants, and one or other of these descendants has died a minor and intestate and no executor has been appointed in his estate, transfer or cession of the property which has vested in that descendant may be passed by the executor in the estate of the deceased person direct to the heirs *ab intestato* of the descendant;
- (ii) if the registrar is satisfied that the value of the immovable property which has vested in any heir

or legatee in terms of a will or through intestate succession would be equalled or exceeded by the costs involved in transferring or ceding it to the heir or legatee, and the heir or legatee has sold the property, transfer or cession thereof may, with the consent in writing of the heir or legatee, be passed by the executor in the estate of the deceased person direct to the purchaser;

- (iii) if in the administration of the estate of a deceased person any redistribution of the whole or any portion of the assets in such estate takes place among the heirs and legatees (including ascertained fidei-commissary heirs and legatees) of the deceased, or between such heirs and legatees and the surviving spouse, the executor or administrator of such estate may transfer the land or cede the real rights therein direct to the persons entitled thereto in terms of such redistribution;
- (iv) in a redistribution mentioned in proviso (iii) it shall be lawful to introduce movable property not forming part of the estate for the purpose of equalizing the division;
- (v) the provisions of proviso (iii) shall apply *mutatis mutandis* with reference to a redistribution of assets of the joint estate of spouses who were married in community of property and have been divorced or judicially separated, and with reference to a redistribution of assets of a partnership on dissolution of the partnership;
- (vi) if a fiduciary interest in land or in a real right terminates before transfer of the land or cession of the real right has been registered in favour of the fiduciary, it shall be competent to transfer the land or cede the real right direct to the fidei-commissary;
- (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 court of a Bantu Affairs Commissioner), 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."

Substitution of section 16 of Act 47 of 1937, as amended by section 4 of Act 80 of 1964.

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

"How real rights shall be transferred.

16. Save as otherwise provided in this Act or in any other law the ownership of land may be conveyed from one person to another only by means of a deed of transfer executed or attested by the registrar, and other real rights in land may be conveyed from one person to another only by means of a deed of cession attested by a notary public and registered by the registrar: Provided that notarial attestation shall not be necessary in respect of the conveyance of real rights acquired under a mortgage bond: Provided further that where the State acquires all the land held under any title deed, the registrar shall make such alterations and entries in his registers and such endorsements on such title deed as may be necessary to register transfer to the State of the property so acquired free of charge."

Insertion of section 23bis in Act 47 of 1937.

8. The following section is hereby inserted in the principal Act after section *twenty-three*:

"Transfer of shares in properties to more than one transferee in one deed.

23bis. Undivided shares in more than one piece of land may not be transferred to more than one transferee in the same deed if the shares appropriated to any one transferee are not the same in respect of each piece of land."

Amendment of section 24bis of Act 47 of 1937, as inserted by section 9 of Act 43 of 1962.

9. Section *twenty-four bis* of the principal Act is hereby amended by the addition of the following sub-section:

“(3) If the land or real right referred to in sub-section (2) is hypothecated under a registered mortgage bond, the endorsement contemplated in the said sub-section shall not be made unless such bond is cancelled or the holder thereof consents in writing (in duplicate) to the substitution of the individual members or partners as debtors under the bond: Provided that such substitution shall not be allowed unless—

- (i) the individual members or partners apply in writing to be substituted, jointly and severally, as debtors under the bond; such application to be in duplicate and witnessed; and
- (ii) the individual members or partners are competent to mortgage the land; and
- (iii) where applicable, the individual members or partners renounce in the said application the exception *de duobus vel pluribus reis debendi*; and
- (iv) where the member or partner is a woman, she renounces in the said application any special legal exceptions which she would otherwise be entitled to raise.”.

Amendment of section 26 of Act 47 of 1937, as amended by section 11 of Act 43 of 1957 and section 11 of Act 43 of 1962.

10. Section *twenty-six* of the principal Act is hereby amended by the substitution for sub-section (7) of the following sub-section:

“(7) The provisions of this section shall also apply to partitions of land registered in different deeds registries.”.

Substitution of section 31 of Act 47 of 1937, as amended by section 13 of Act 43 of 1957 and section 13 of Act 43 of 1962.

11. The following section is hereby substituted for section *thirty-one* of the principal Act:

“Transfer of expropriated land or land vested by statute.

31. (1) Whenever any land has, under the authority of any law, been expropriated by, and whenever the ownership of any land has by statute been vested in, the State, any public or local authority or any corporate body or any association of persons, the registrar shall, upon lodgment with him of a deed of transfer in the prescribed form prepared by a conveyancer in favour of the transferee, execute the same, and if the land is hypothecated, he shall note the fact of such transfer against the entry of the bond in the register in which such entry has been made: Provided that no such transfer shall prejudice any claim to compensation which any owner or other person may have in respect of the change of ownership of such land.

(2) The transferee shall produce the title deeds of such land to the registrar together with the aforesaid deed of transfer, and the registrar shall thereupon note the transfer on such title deeds. Failing the production of such title deeds, the transferee shall produce to the registrar an order of court referred to in sub-section (3) or an affidavit to the satisfaction of the registrar that he has been unable to obtain possession of the title deeds.

(3) The owner of such land shall, upon demand, hand over his title deeds to the transferee and if he fails to do so, the transferee may apply to court for an order directing the owner to do so, and authorizing the registrar to execute the aforesaid deed of transfer without the production of the said title deeds, if the owner should fail to comply with such order.

(4) (a) The registrar shall not execute the said deed of transfer unless a certificate has been furnished to him by the transferee referred to in sub-section (1), to the effect that the provisions of any law in connection with the change of ownership in the land in consequence of expropriation or vesting, have been complied with.

(b) The said deed of transfer shall be registered subject to all existing conditions affecting the land in question which have not been expropriated or vested in the transferee.

(5) No deed by the expropriating authority purporting to transfer such land or to create or deal with any real right therein shall be registered in a deeds registry until transfer thereof has been passed in accordance with sub-section (1).

(6) (a) 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 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: Provided that the aforementioned expropriation plans shall be dispensed with where the whole of a piece of land has been expropriated.

(b) The existence of any endorsement referred to in paragraph (a), shall not debar the registered owner of the land in question from transferring or otherwise dealing with that land and upon registration of a transfer deed in favour of the transferee in pursuance of the expropriation, any such endorsement shall lapse: Provided that where the entire extent of a piece of land recognized as a separate entity in a deeds registry has been expropriated, the registered owner of the said land shall be debarred from transferring it or otherwise dealing therewith except to effect registration of a transfer deed in favour of the transferee in pursuance of the expropriation.

(7) Where any land has been expropriated and formal transfer of such land to the transferee has not been effected, the registrar shall, on written application by the transferee and the owner, cancel any endorsement made in connection with the expropriation in his registers or on the title deed of the land, and thereupon the land so expropriated shall vest in such owner.

(8) The provisions of sub-sections (6) and (7) shall not affect the provisions of section *eleven* of the Railway Expropriation Act, 1955 (Act No. 37 of 1955)."

Substitution of section 32 of Act 47 of 1937, as amended by section 14 of Act 43 of 1957 and section 14 of Act 43 of 1962.

12. The following section is hereby substituted for section *thirty-two* of the principal Act—

"Registra-
tion of
expropriated
servitudes
or servitudes
vested by
statute.

32. (1) Whenever any right of servitude or right to minerals over any land has under the authority of any law been expropriated by, or has by statute been vested in the State, any public or local authority or any corporate body or any association of persons, the owner of the land or right to minerals shall on demand of the holder of such right sign or authorize the signature of a notarial deed evidencing such servitude or right to minerals and hand over to such holder the title deeds of the land or right to minerals.

(2) If the owner of the land or right to minerals fails to comply with the provisions of sub-section (1), the nominee of the holder of the right of servitude or right to minerals shall appear before a notary and execute the said deed.

(3) On production of the prescribed number of copies of the said deed duly executed and of the title deeds or of an affidavit to the satisfaction of the registrar that the holder of the right of servitude or right to minerals has been unable to obtain possession of the title deeds, the registrar shall register the deed, and if the land is hypothecated, shall note the fact of such registration against the entry of the bond in the register in which such entry has been made: Provided that no such registration shall prejudice any claim to compensation which any owner or other

person may have in respect of the expropriation or vesting of such servitude or right to minerals.

(4) The registrar shall not register the said deed unless a certificate has been furnished to him by the cessionary to the effect that all notices prescribed by or under any law in connection with the expropriation of such servitude or right to minerals have been served upon the person entitled to such notices, and if it appears from the said certificate that such servitude or right to minerals has been expropriated subject to any existing conditions, the deed shall be registered subject to those conditions.

(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 diagram 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 diagram of such portion, 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 diagram to be annexed thereto.

(6) The provisions of sub-section (5) shall not affect the provisions of section *eleven* of the Railway Expropriation Act, 1955 (Act No. 37 of 1955)."

Amendment of section 33 of Act 47 of 1937, as substituted by section 15 of Act 43 of 1962.

13. Section *thirty-three* of the principal Act is hereby amended by the substitution for sub-section (11) of the following sub-section:

"(11) Upon production to the registrar of deeds of any order made under this section and of a certificate by the proper officer as to the payment of the transfer duty, if any, which the person named in the order is liable to pay, and on compliance with any other requirements which have under this Act to be complied with, the registrar shall register such property in accordance with the said order, by executing a deed of transfer thereof in the prescribed form in favour of the person named in the order: Provided that it shall not be necessary to produce the title deed of the property or a certified copy thereof, if an affidavit by the transferee is produced that he has been unable to obtain possession of such title deed."

Amendment of section 34 of Act 47 of 1937.

14. Section *thirty-four* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) Any person who is the joint owner of a piece of land the whole of or shares in which is or are held by such person and others under one title deed, may, subject to the provisions of section *thirty-seven*, obtain a certificate of registered title of his undivided share in such land, and no transfer of a fraction only of his undivided share or hypothecation or lease of the whole or any fraction of his undivided share in the land shall be registered in a deeds registry unless a certificate of registered title of such undivided share is produced to the registrar: Provided that all the joint owners so holding under one title deed may together transfer an undivided share in the land or a fraction of the share held under such deed or hypothecate or effect the registration of a lease of the whole of such land or share without the production of such a certificate: Provided further that such a certificate shall not be necessary where a joint owner disposes of the whole of his share by deeds of transfer to be registered simultaneously."

Amendment of section 41 of Act 47 of 1937.

15. Section *forty-one* of the principal Act is hereby amended—

(a) by the substitution for sub-section (2) of the following sub-section:

“(2) Every such certificate shall be in accordance with the new diagram and shall be issued on written application by the owner or owners of the land in question, accompanied by the title deed or title deeds thereof, together with any bond thereon and the written consent of the holder of any such bond.”; and

(b) by the addition of the following sub-sections:

“(3) In registering the certificate the registrar shall endorse on the title deed or title deeds of the land in question that the title deed has or the title deeds have been superseded by the certificate, and on the certificate that the land therein described or the share thereof referred to in such endorsement, is mortgaged by such bond, and shall make such endorsements on the bond and such entries in the registers as shall clearly indicate that the land is now owned by virtue of such certificate and that the land or such share thereof is subject to such bond.

(4) The provisions of paragraph (a) of sub-section (5) and of sub-section (6) of section *forty* shall *mutatis mutandis* apply in respect of such certificate.”.

Amendment of section 44 of Act 47 of 1937, as amended by section 18 of Act 43 of 1962.

16. Section *forty-four* of the principal Act is hereby amended by the addition of the following sub-section:

“(3) The provisions of sub-sections (1) and (2) shall *mutatis mutandis* apply in respect of a deed of cession or certificate of rights to minerals when the surveyor-general has approved a new or corrected diagram in consequence of a survey or re-survey of the land over which such rights operate or for the purpose of correcting any error in the diagram thereof in terms of the Land Survey Act, 1927 (Act No. 9 of 1927).”.

Amendment of section 46 of Act 47 of 1937, as amended by section 22 of Act 43 of 1957.

17. Section *forty-six* of the principal Act is hereby amended by the addition of the following sub-section:

“(7) Where a general plan has been registered in terms of sub-section (1), it shall not be necessary, where a whole erf is transferred, to produce a diagram thereof: Provided that where a diagram has not been produced, a reference shall be made to the general plan in the relevant deed of transfer: Provided further that the provisions of this sub-section shall apply only with reference to general plans lodged for registration on or after the date of commencement of the Deeds Registries Amendment Act, 1965.”.

Substitution of section 50 of Act 47 of 1937.

18. The following section is hereby substituted for section *fifty* of the principal Act:

Execution of bonds.

50. (1) A mortgage bond shall be executed in the presence of the registrar by the owner of the immovable property therein described or by a conveyancer duly authorized by such owner by power of attorney, and shall be attested by the registrar.

(2) A mortgage bond or notarial bond may be registered to secure an existing debt or a future debt or both existing and future debts.

(3) Mortgage bonds or notarial bonds intended to secure loans for building purposes shall be deemed to be bonds to secure existing debts.

(4) If in a mortgage bond or notarial bond purporting to secure a future debt the amount of an existing debt is mentioned, such existing debt shall be deemed to be secured as part of the maximum amount intended to be secured by such bond.

(5) Save as authorized by any other law or by order of the Court, debts or obligations to more than one creditor arising from different causes may not be secured by one mortgage bond or notarial bond.”.

Substitution of section 51 of Act 47 of 1937.

19. The following section is hereby substituted for section *fifty-one* of the principal Act:

"Requirements in case of bonds intended to secure future debts.

51. (1) Except where passed, in Natal or the Orange Free State, on the authority of a power of attorney granted prior to the commencement of the Deeds Registries Act, 1918, or, in the Transvaal, on the authority of a power of attorney granted prior to the commencement of the Registration of Deeds and Titles Act, 1909 (Act No. 25 of 1909) of the Transvaal, which power of attorney has in either case been duly registered in terms of sub-section (2) of section *fifty* of the first-mentioned Act, no mortgage bond or notarial bond attested or registered after the commencement of this Act shall be of any force or effect for the purpose of giving preference or priority in respect of any debt incurred after the registration of such bond, unless—

(a) it is expressly stipulated in the bond that the bond is intended to secure future debts generally or some particular future debt described therein; and

(b) a sum is fixed in the bond as an amount beyond which future debts shall not be secured by the bond.

(2) If a mortgage bond or notarial bond purports to secure payment by the mortgagor of the costs of preserving and realizing the security or of fire insurance premiums, cost of notice or bank exchange, such costs and charges shall not be deemed to be future debts within the meaning of sub-section (1)."

Substitution of section 52 of Act 47 of 1937, as substituted by section 23 of Act 43 of 1957 and amended by section 22 of Act 43 of 1962.

20. The following section is hereby substituted for section *fifty-two* of the principal Act:

"Cession of bond to secure future advances.

52. A cession of a mortgage bond or notarial bond passed to secure future advances may be registered and the registration of such a cession shall not affect the provisions of the bond relating to future advances up to the amount stated in such bond or the amount as reduced."

Substitution of section 54 of Act 47 of 1937.

21. The following section is hereby substituted for section *fifty-four* of the principal Act:

"No bond to be passed in favour of an agent.

54. No mortgage bond or notarial bond shall be passed in favour of any person as the agent of a principal."

Substitution of section 55 of Act 47 of 1937, as amended by section 25 of Act 43 of 1957 and section 23 of Act 43 of 1962.

22. The following section is hereby substituted for section *fifty-five* of the principal Act:

"Requirements in case of bonds passed by or in favour of two or more persons.

55. (1) If a mortgage bond or notarial bond is passed by two or more mortgagors, no release from the bond—

(a) of any mortgagor and his property, or of a portion of the property of any mortgagor may be registered without the written consent of the other mortgagor or mortgagors; or

(b) of all the property of any mortgagor may be registered unless such mortgagor is also released.

(1)*bis* If a mortgage bond or notarial bond is passed by two or more mortgagors, no waiver of preference by the mortgagee in favour of a further mortgage bond or notarial bond over the property of one of the mortgagors may be registered without the written consent of the other mortgagor or mortgagors.

(2) No mortgage bond or notarial bond may be passed in favour of two or more persons in which it is stipulated that the share of one holder shall rank prior in order of preference to the share of another, nor may any transaction be registered which would have the effect of giving preference to one share in such bond over another share."

Amendment of section 56 of Act 47 of 1937, as amended by section 26 of Act 43 of 1957.

23. Section *fifty-six* of the principal Act is hereby amended by the substitution for paragraph (a) of sub-section (1) of the following paragraph:

"(a) in execution of the judgment of any court (including a magistrate's court and a court of a Bantu Affairs Commissioner) by the competent officer; or".

Amendment of section 61 of Act 47 of 1937, as amended by section 28 of Act 43 of 1957.

24. Section *sixty-one* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) Every notarial bond executed before or after the commencement of this Act shall be registered in a deeds registry within the period of three months after the date of its execution or within such extended period as the court may on application allow."

Amendment of section 64 of Act 47 of 1937.

25. Section *sixty-four* of the principal Act is hereby amended by the insertion after sub-section (2) of the following sub-section:

"(2)*bis* Any person who transfers land or on whose land a township or settlement is established subject to a reservation in his favour of the right to receive the claim and stand licence moneys or rents, or any part thereof, accruing under any law relating to mining to the owner of such land, shall simultaneously with the passing of transfer or the opening in the deeds registry of a register in respect of such township or settlement, as the case may be, take out in the prescribed form a certificate of registered real rights in respect of the right so reserved; where the register has been opened, such certificate may be taken out in respect of the remainder of the township or settlement upon a certificate from the Surveyor-General as to the remainder."

Amendment of section 71 of Act 47 of 1937, as amended by section 29 of Act 43 of 1962.

26. Section *seventy-one* of the principal Act is hereby amended by the substitution for paragraph (a) of sub-section (2)*bis* of the following paragraph:

"(a) Notwithstanding the provisions of paragraph (a) of sub-section (2), upon the written application to the registrar of any person who is the holder of or who is entitled to the rights to minerals reserved before the commencement of this Act in respect of any land on which a township or settlement has before or after the commencement of this Act been established, the registrar may issue to such person a certificate of rights to minerals in the prescribed form in respect of such rights without the production of the title deed of each erf, lot or other piece of land in any such township or settlement which is subject to such reservation of rights to minerals."

Insertion of section 74*bis* in Act 47 of 1937.

27. The following section is hereby inserted in the principal Act after section *seventy-four*:

"Correction of error in registration of rights to minerals. 74*bis*. (1) If by reason of an error the same rights to minerals have been registered in the names of different persons, the registrar may, upon cession of the rights being given to one of them by the other or others, issue to the person to whom cession is so given a certificate of rights to minerals in the prescribed form in respect of the rights held by him under the various titles.

(2) The provisions of section *thirty-seven* shall *mutatis mutandis* apply in respect of the issue of such certificate."

Amendment of section 76 of Act 47 of 1937, as amended by section 35 of Act 43 of 1957 and section 33 of Act 43 of 1962.

28. Section *seventy-six* of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of sub-section (1) of the following paragraph:

"(b) the person to whom the transfer is to be passed

consents in writing to such servitude being embodied in the transfer; and"; and

(b) by the deletion of sub-section (5).

Amendment of section 77 of Act 47 of 1937, as amended by section 34 of Act 43 of 1962.

29. Section *seventy-seven* of the principal Act is hereby amended by the insertion after sub-section (1) of the following sub-section:

"(1)*bis* Whenever a cession of a lease is to be registered in respect of any portion of the land leased, a notarial copy of the lease shall be attached to such cession and after registration such cession with the notarially certified copy of the lease annexed thereto shall be deemed to be the title to the portion of the lease so ceded, and for any subsequent registration in respect thereof it shall be part of the title."

Substitution of section 87 of Act 47 of 1937, as amended by section 3 of Act 15 of 1953 and section 37 of Act 43 of 1957.

30. The following section is hereby substituted for section *eighty-seven* of the principal Act:

"Manner and time of registration of antenuptial contracts.

87. (1) An antenuptial contract executed in the Republic shall be attested by a notary and shall be registered in a deeds registry within three months after the date of its execution or within such extended period as the court may on application allow.

(2) An antenuptial contract executed outside the Republic shall be attested by a notary or otherwise be entered into in accordance with the law of the place of its execution, and shall be registered in a deeds registry within six months after the date of its execution or within such extended period as the court may on application allow.

(3) Registration of an antenuptial contract in any one deeds registry in the manner prescribed in this section shall be effective as registration for the whole Republic: Provided that if any transaction in connection with which evidence of such contract is necessary takes place in a deeds registry other than that in which such contract has been registered, a copy of such contract certified by the registrar of the place of registration or a notary public shall be recorded and filed in such first-mentioned deeds registry.

(4) For the purposes of this section 'Republic' shall include the Territory of South-West Africa."

Short title and date of commencement.

31. This Act shall be called the Deeds Registries Amendment Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.