

Deeds Registries Regulations, 2018

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has, in terms of section 87 of the Deeds Registries Act [Chapter 20:05] (“the Act”), made the following regulations:—

Title and date of commencement

1. (1) These regulations may be cited as the Deeds Registries Regulations, 2018.

(2) These regulations shall come into effect on a date to be fixed by the Minister by statutory instrument.

Interpretation of terms

2. In these regulations—

“bond” means a mortgage bond or notarial bond;

“deed” means any deed of grant, deed of transfer or other deed conferring title to land or a real right in land, and including—

(a) mortgage bond; or

(b) any notarial deed creating, varying, amending or substituting rights in respect of immovable property;

“document” means any deed other than as defined, power of attorney or other document tendered for, registration or recording at a deeds registry;

“duly authorised” means authorised by a power of attorney attested in accordance with the provisions of section 78 of the Act;

“form” means the appropriate form set out in the First Schedule;

“page” means one side of a sheet of paper size A4 (297 mm x 210 mm);

“registration number” means the registration number of the transaction recorded by the Registrar of Deeds on the first and last pages of a deed or document;

“serial number” means the number embedded on the top right corner of the front page of each deed;

“sheet” means a piece of paper comprising two sides, being the obverse or front page and the reverse or back page;

“written” means written in ink, typewritten or electronically printed.

PART I

PROVISIONS RELATING TO DOCUMENTS

Size of and other particulars relating to documents

3. (1) Subject to the provisions of this Part, all documents shall be written in the English language and shall comply with the following requirements—

- (a) all deeds shall be written upon international standard paper size A4 (297 mm x 210 mm), containing various security devices, purchased from or through a supplier designated from time to time:

Provided that the Registrar may dispense with the requirements of this paragraph if in his or her opinion the nature of the document makes it impractical to comply with such requirements; and

- (b) all documents other than deeds shall be written upon durable white paper of not less than 80 grams which is of paper size A4 (297 mm x 210 mm):

Provided that the Registrar may dispense with the requirements of this paragraph if in his or her opinion the nature of the document makes it impractical to comply with such requirements; and

- (c) all documents shall be written in legible characters in permanent black ink, which is not copying ink, using a font of not less than 11 points in size; and
- (d) all documents shall be written on both sides of a sheet; and
- (e) all documents including deeds shall be written with a clear margin of at least 35 mm measured from the left hand side of each page.

(2) In the case of any deed, the upper half of the first page shall be left blank for the purposes of office endorsements. If the said upper half is insufficient for this purpose the Registrar may attach to a deed an additional blank sheet.

(3) The Registrar—

- (a) may, if he or she thinks fit, may accept a photographic copy of any document which is to be filed for record purposes only;
- (b) shall not accept a carbon copy of any document which requires registering and filing in his or her office.

(4) In any document any space which has not been used shall be ruled through.

(5) In any document which consists of more than one page the necessary catchword shall be written at the foot of each page.

Alterations and interlineations

4. (1) any alteration or interlineations in a document shall be initialled by the person executing the document and by the attesting witnesses, if any.

(2) Any alteration or interlineations in a document which is attested by a person who was not the original attester of the document shall be signed by the persons attesting the alteration or interlineations.

Documents to be clear and not folded

5. The Registrar may decline to register or accept any document if in his or her opinion the writing thereon, because of its faintness or the folding or condition of the document, is illegible or not calculated to secure durability.

Documents in foreign language

6. The Registrar shall accept for registration or record purposes any document expressed in a foreign language if a translation thereof, duly certified by a person accepted by the Registrar as a competent translator, is lodged therewith.

Documents to disclose place and date of execution

7. A document tendered for registration or record purposes shall disclose the place and date of execution thereof:

Provided that the Registrar may dispense with the requirements of this section if in his or her opinion the nature of the document makes it unnecessary to comply with such requirements.

Documents to disclose identity of persons

8. (1) Unless the Registrar in any particular case otherwise permits, a document shall specify the identity of any person mentioned therein established in accordance with the provisions of section 51 of these regulations.

(2) No assumed name or *alias* shall be added to any name in a document.

Cross-references to be quoted

9. If in any document a reference is made to a document filed in the Deeds Registry the number and date of registration of the latter document must be cited in such reference.

Deeds required to be prepared by a conveyancer to be endorsed

10. (1) Any document which is required by section 13 of the Act to be prepared by a conveyance shall bear a preparation certificate recording the name and address of the firm or partnership to which the conveyancer or notary public is attached and the conveyancer's signature to signify that the deed has been prepared by him or her.

(2) The conveyancer referred to in subsection (1) shall initial any alteration, addition or interlineations in any document prepared by him or her:

Provided that, if in the opinion of the Registrar an alteration or interlineations is not of a material nature it may be initialled by the conveyancer executing the document.

(3) If any document referred to in subsection (1) is written on more than one sheet the conveyancer preparing the document shall sign each sheet.

Description of areas of land

11. (1) The extent of any area of land described in a document shall be expressed in figures.

(2) A document which describes or mentions an area of land shall express the area, if the land—

- (a) is one hectare or more in extent, in hectares to four decimal places;
- (b) is less than one hectare in extent, in square metres.

(3) For the purpose of confirming the area referred to in subsection (2) in metric measure there shall be lodged with the document concerned—

- (a) the relevant diagram endorsed by the Surveyor-General;
or
- (b) a certificate issued by the Surveyor-General:

Provided that, in the case of diagrams where the original area was expressed in Cape measure or English measure, the diagrams shall be endorsed by the Surveyor-General.

(4) In any document in which a servitude is described or defined the information shall be expressed in metric measure and, if so required by the Registrar, shall be supported by a certificate issued by the Surveyor-General.

Documents referring to body corporate

12. (1) Where—

- (a) a document by or in favour of—
 - (i) any company, association, society, institution or other corporate body; or
 - (ii) any trustees or other officers of a body referred to in subparagraph (i); or
- (b) a consent to the performance of any act on behalf of anybody or person referred to in paragraph (a);

is lodged in the Deeds Registry, a certified copy of or, with the consent of the Registrar, a relevant extract or resolution from the constitution

of the body concerned, shall be filed of record together with any other proof necessary to show that the transaction concerned is within the powers which may lawfully be exercised by the body concerned.

(2) In subsection (1)—

“constitution”, in relation to a body or person referred to in subsection (1)(a), includes any memorandum or articles of association, regulations or other such document establishing or setting out the powers or functions of that body or person.

Documents conjoined with other documents

13. If any document is to be dealt with in conjunction with a document which has been or is to be lodged by some other person—

- (a) a note to that effect shall be made on the lodging covers by the persons responsible for the lodging of the documents concerned;
- (b) if a note is not made in terms of paragraph (a) the document may, if it is in order, be dealt with independently of such other document.

PART II

PRESCRIBED FORMS

Certificate of State title

14. A certificate of state title referred to in section 17(2) of the Act shall be in form D.R.1.

Deed of transfer

15. A deed of transfer shall be in form D.R.2.

Deed of partition transfer

16. A deed or partition transfer referred to in subsection (1) of section 29 of the Act shall be in form D.R.3.

Substituted title deeds

17. (1) A certificate of registered title issued in terms of section 34, 35, 36, 38, 39 or 41 of the Act shall be in form D.R.4.

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(2) A certificate of consolidated title issued in terms of section 40 of the Act shall be in form D.R.5.

(3) The notice to be published by the Registrar in terms of section 38(2) of the Act shall be in form D.R.6.

Substitution of debtor

18. The consent of the holder of a bond and the transferee referred to in section 51 of the Act shall be in form D.R.7.

Use of old forms

19. Notwithstanding the provisions of this Part, until directions are made in writing by the Registrar; the Registrar may accept or use any document referred to in this Part which is set out in the form prescribed in the repealed regulations.

PART III

COPIES OF DOCUMENTS

Application for copy or replacement of document

20. (1) Any person who requires—

- (a) a copy of any document filed in the Deeds Registry; or
- (b) the replacement of any document filed in the Deeds Registry because his or her copy of the document has been lost, destroyed, defaced or damaged;

shall make an application to the Registrar in writing, subject to provisions of subsections (2), (3) and (4) below.

(2) An application in terms of subsection (1) for a copy of any document—

- (a) shall indicate the reason why the copy is required; and
- (b) if the copy is required for judicial purposes, shall be signed by a legal practitioner or any other officer of the court.

(3) In the case of an application in terms of subsection (1) for the replacement of a document which has been defaced or damaged the document to be replaced shall be lodged with the application.

(4) In the case of an application in terms of subsection (1) for the replacement of a deed which has been lost or destroyed—

- (a) the application shall be signed by the person in whose name the land or interest concerned is registered, by his or her agent or by his or her legal representative under an acceptable form of authority acceptable to the Registrar bearing clear imprints of the grantor's thumb and index finger imposed adjacent to the grantor's signature; and
- (b) a solemn declaration by the applicant shall be lodged with the application, describing the deed and stating—
 - (i) that the deed has been lost or destroyed; and
 - (ii) that at the time of the loss or destruction the land or interest concerned was registered in the applicant's name or in the name of the person the applicant represents, as the case may be; and
 - (iii) that to the best of the applicant's knowledge at the time of its loss or destruction the deed was not pledged or ceded to any person or otherwise detained as security for a debt or otherwise; and
 - (iv) if it is alleged that the deed is lost, that a diligent search for the deed has been made; and
 - (v) that the applicant undertakes that if the deed is found he or she will transmit it forthwith to the Registrar; and
 - (vi) if possible the circumstances in which the deed was lost or destroyed; and
- (c) proof that the notice required by section 22 has been published by the lodging conveyancer supported by identification of applicant in terms of section 51;
- (d) the application shall be—
 - (i) signed before a notary public by the person in whose name the land or interest concerned is registered, provided, where the grantor suffers from physical disability that prohibits him or her from affixing his or her signature, the Registrar may exercise his or her discretion to waive such requirements; or

- (ii) signed by a legal practitioner appointed to represent such person under a power of attorney attested by a notary public, subject to the provisions of section 28; and
- (iii) accompanied by proof of identity of the person in whose name the land or interest concerned is registered, certified as a true copy of the original by the notary public; and
- (iv) accompanied by proof of the identity of such person's representative, certified as a true copy of the original by a commissioner of oaths.

Registrar may call for evidence of loss or destruction of document

21. If in the case of an application for the replacement of a document which is alleged to have been lost or destroyed the Registrar is of the opinion that further evidence is necessary to establish the loss or destruction, he or she may call for such evidence from the applicant or from any other person in whose custody the document may have been before the loss or destruction thereof.

Publication of applications relating to deeds

22. A person who wishes to apply in terms of section 20 for the replacement of a deed which has been lost or destroyed shall cause notice of his or her proposed application to be published in form D.R.8 in—

- (a) the *Gazette*; and
- (b) a newspaper circulating in the area in which the land concerned is situated;

inviting persons having any objection to, or wishing to make representations in connection with, the issue of the replacement deed to lodge their objections or representations in writing at the Deeds Registry within fourteen days of the date of publication of the notice.

Issue of copies or replacements

23. (1) Subject to the provisions of subsection (3), the Registrar shall issue a copy or replacement applied for in terms of section 20

if he or she is satisfied that there is no good reason to refuse to issue the copy or replacement, as the case may be.

(2) The Registrar shall ensure that every copy of a document which is required—

- (a) for information only, has the words “issued for information purposes only”; or
- (b) for judicial purposes, has the words “issued for judicial purposes only.

(3) The Registrar shall not issue a replacement of any deed unless he or she is satisfied that—

- (a) notice of the application has been published in accordance with the requirements of section 22; and
- (b) a period of not less than thirty days has elapsed since the publication of the notices referred to in paragraph (a); and
- (c) due regard has been had to any representation lodged; and
- (d) no valid objection to the issue of the replacement has been lodged.

(4) The Registrar shall ensure that every copy of a deed which confers rights in land and is issued *in lieu* of the original shall be copied on securitised paper specified in section 3(1)(a), which copy shall be sealed and certified by the Registrar.

Registrar may require replacement of deeds which are unserviceable

24. If any deed is lodged for any purpose without an application being made in terms of section 20 for a replacement thereof and the Registrar is of the opinion that the deed is unserviceable for the purposes intended, he or she may refuse to accept the deed until such time as the owner or holder thereof has obtained a replacement in accordance with the provisions of this Part.

Endorsement or destruction of document which has been replaced

25. If any document for which a replacement has been issued under this Part or the corresponding provisions of the repealed regulations is delivered or transmitted to the Registrar in terms of section 82 of the Act the Registrar shall—

- (a) endorse thereon that it has become void; or
- (b) destroy it.

Lost or destroyed certificate of registered title of undivided share

26. (1) A person who wishes to obtain in terms of section 34(2) or (3) of the Act a certificate of registered title of an undivided share in a piece of land shall comply with the requirements of sections 20, 21 and 22.

(2) Where a person has obtained a certificate of registered title in accordance with the provisions of section 34(2) or (3) of the Act—

- (a) the Registrar shall endorse his or her records to the effect that a certificate has been issued in terms of section 34 of the Act in respect of the share of the applicant; and
- (b) if the deed has been lost and is subsequently found and produced to the Registrar, a similar endorsement shall be made on the deed so produced.

PART IV

ACTS DONE UNDER POWER OF ATTORNEY

Filing of power of attorney

27. Any person who wishes to perform in connection with the lodging or filing of a document and act on behalf of any other person shall file with the Registrar the original of the power of attorney under which he or she claims to act:

Provided that—

- (i) the Registrar may accept for filing a notarial copy of the original and shall return such original to the person concerned;

- (ii) if the Registrar has filed a notarial copy in terms of proviso (i) or the corresponding provisions of the repealed regulations he or she may at all times treat such notarial copy as unrevoked until he or she receives notice to the contrary.

Dealings in immovable property

28. (1) A general power of attorney shall not be accepted for the purpose of alienating or encumbering immovable property.

(2) Any power of attorney authorising the transfer or encumbrance or other dealing in immovable property shall —

- (a) clearly and sufficiently describe the property concerned; and
- (b) fully describe the grantor of the power of attorney by his or her name and identity number; and
- (c) be signed in ink by or bear the mark of the grantor;

Provided, where the grantor suffers from physical disability that prohibits him or her from affixing his or her imprints, the Registrar may exercise his or her discretion to waive such requirements; and

- (d) include an attestation clause signed by a notary public; and
- (e) have attached to it proof of the grantor's identification, as defined in section 51, certified as a true copy of the original by the notary public.

Power of attorney on bond or deed

29. If a power of attorney —

- (a) is written on a form of mortgage bond or deed of transfer; or
- (b) authorises the passing of a mortgage bond or transfer on a form annexed thereto; and
- (c) complies with the requirements contained in section 28(2);

such form shall be accepted for registration of a mortgage bond or deed of transfer.

Marriages in community of property

30. If a person married in community of property wishes to deal with any land or interest therein or any notarial bond registered in the name of his or her spouse —

- (a) such spouse shall sign and date the power of attorney authorising such dealing before a notary public; and
- (b) shall produce other satisfactory proof that the marriage still subsists.

PART V

DEEDS OF TRANSFER

Partnerships

31. (1) Any document by or in favour of a partnership shall show the full names, dates of birth and identification details of the partners in the partnership.

(2) If any property is registered in favour of a partnership the property may be transferred, mortgaged or otherwise dealt with in accordance with a power of attorney bearing the signatures of all the partners or the signature of a person appointed by the partners under resolution certified by a notary public as being a true extract from the minutes of the relevant meeting of the partnership.

(3) If in the case of property registered in favour of a partnership any partner wishes to transfer or cede his or her share in that property such transfer or cession shall not be registered unless the entire property and not merely the share of the partner is transferred or ceded.

(4) If during the continuance of a partnership any partner wishes to register any transaction affecting his or her share in any property registered in the name of the partnership the transactions shall not be registered until the share to which he or she is entitled has been transferred or ceded to him or her.

Property of minors

32. (1) Where it is sought to transfer or cede property to a person who is a minor the transfer or cession shall, subject to the provisions of section 28 of the Act, be registered in the name of the minor and

not in the name of any parent, guardian, tutor or curator, as the case may be.

(2) Immovable property or any interest in immovable property registered in the name of a minor shall not be alienated or encumbered unless the High Court or any judge thereof has authorised such alienation or encumbrance, as in section 91 of the Administration of Estates Act [Chapter 6:01]:

Provided any bond registered in favour of a minor who owns immovable property shall not be cancelled unless the consent of the Master of the High Court is first obtained in form E.D. 16, as in section 25 of the Estate Duty Act [Chapter 23:03].

Land sold in execution

33. Any transfer of land in pursuance of the execution of the judgment of a court may be passed on a certified copy of the last title deed of the land even though that copy has been issued “for judicial purposes only” if the officer carrying out the judgment certifies that he or she has not been able to recover the title deed held by the person against whom the judgment was given.

Conveyance of two or more pieces of land in same deed

34. If two or more pieces of land are conveyed by the same title deed—

- (a) each piece of land shall be described in accordance with the provisions of section 20 of the Act in a separate paragraph; and
- (b) each such paragraph shall be numbered.

Transfer of undivided shares and sections in land

35. (1) In any deed relating to an undivided share in a piece of land the share shall be expressed in one fraction in its lowest terms and, if it is a complicated case, the method of arriving at the result shall be described.

(2) Where two or more persons are registered as the holders of a deed of sectional title conferring right of occupation conferred in terms of section 27 of the Act and one of them wishes to alienate

his or her interest in the section held by all of them all of the persons holding title shall signify their consent thereto by signing a power of attorney to make transfer, in compliance with subsection (2) of section 28, of the whole of the undivided share by virtue of the following *causa*—

- (a) in respect of the interest to be alienated the *causa* may include inheritance, donation *inter vivos*, sale, in terms of an order of court, and other lawful causes; or
- (b) in respect of the interest to be retained, but recorded in the new deed.

(3) The consideration clause in the new deed of title shall refer to the value of both the current alienation and the value of the remaining interest, the latter based on the value of the whole section as reflected in the prior deed less an amount equal to the value of the interest alienated.

Land referred to in more than one deed

36. (1) Where the title to land to be transferred or hypothecated is contained in more than one deed the Registrar may require the conveyancer to furnish a statement which—

- (a) contains particulars regarding the different fractional shares represented by each deed; and
- (b) in a complicated case, describes the method by which the result was arrived at; and
- (c) if there are two or more owners, indicates the shares held by each owner.

(2) Where the land referred to in subsection (1) is one of several pieces of land described in a transfer deed or mortgage bond the legal practitioner shall furnish a reference to the paragraph in the deed or bond which relates to such land.

Land where rights of owner limited

37. (1) Where —

- (a) land is transferred subject to any special condition; or
- (b) it appears from the deed produced to the Registrar that the land is held subject to a special condition;

which limits the rights of the owner in that land that condition shall be embodied in the deed and repeated in every subsequent deed conferring title to the land.

(2) Where it appears from a deed that an owner of land has acquired any right of servitude over other land, such right shall be specially referred to or mentioned and described in every deed conferring title to both the land in favour of which the servitude is created and the land which is subject to the servitude.

(3) Where a deed of grant contains conditions which are reserved in favour of the State—

- (a) the right to resume ownership of the land; or
- (b) the ownership of minerals;

in any subsequent deed conferring title to the land or a portion of the land concerned, particular of the said conditions shall be inserted by way of reference to the deed of grant instead of setting out the said conditions in full.

Transfer to rehabilitated insolvent where no trustee

38. A transfer by the Master in terms of the proviso to 52(2) of the Act shall be passed on a power of attorney signed by the Master.

Transfer by heir or legatee where value of property is less than cost of transfer

39. Where property is transferred or ceded to a purchaser in terms of proviso (ii) to subsection (1) of section 11 of the Act the deed of transfer or cession shall not be registered unless proof of the value of the property concerned is furnished by means of a written valuation made by a valuator approved by the Registrar.

Partition of land subject to fidei commissum where fidei commissary heirs not known

40. Where there has been a partition of land in terms of section 33(1) of the Act the transfer of any land in accordance with the provisions of paragraph (b) of that subsection shall not be registered unless proof that the land awarded on such partition to the owner of any share subject to the *fidei commissum* is an equivalent of that share

is furnished by means of a written report of a valuator approved by the Registrar.

PART VI

MORTGAGE BONDS

Details required in mortgage bond

41. (1) A mortgage bond shall contain a full and clear description of the land to be hypothecated, including the extent thereof.

(2) Where two or more pieces of land are to be hypothecated in one mortgage bond—

- (a) each piece of land shall be described in a separate paragraph which shall be numbered; and
- (b) the date and number of the deed by which the land is held shall be quoted in each paragraph:

Provided that, if more than one piece of land is held by one and the same deed the date and number of the deed may be quoted in a separate paragraph after the description of the last of the pieces of land held by that deed.

Partnerships

42. In the case of a mortgage bond in favour of a partnership, consent to any act of registration or cancellation in respect of that bond may be signified under a consent bearing the signatures of all the partners or the signature of a person appointed by the partners under resolution certified by a legal practitioner as being a true extract from the minutes of the relevant meeting of the partnership.

Consents

43. (1) Subject to the provisions of this section, the consent to the performance of any of the following acts in respect of a registered mortgage bond shall be upon a separate sheet of paper which is signed by the holder of the bond or his or her duly authorised agent and duly witnessed, recorded and filed by the Registrar of Deeds—

- (a) the cancellation of the bond;
- (b) the cancellation of a cession made as security;

- (c) any cession, whether made as security or otherwise;
- (d) any reduction of cover or noting of part payment of the capital amount due;
- (e) the release of the whole or of any portion of the land hypothecated;
- (f) the issue of a certificate of registered title or of consolidated title in respect of the land hypothecated;
- (g) any rectification of title in terms of section 42 of the Act in respect of the land hypothecated;
- (h) the registration of a servitude over the land hypothecated;
- (i) any release of a joint debtor or a surety;
- (j) the substitution of any other person for a debtor;
- (k) every waiver of preference in favour of another mortgage bond, whether registered or about to be registered;
- (l) any agreement between the mortgagor and the registered holder of the bond whereby any terms of the bond have been varied;
- (m) any other act for which consent is required in terms of the Act or any other law.

(2) A consent mentioned in subsection (1) shall describe the bond and shall specify the full name and date of birth and identification of the mortgagor.

(3) A consent shall be signed—

- (a) before a legal practitioner by the holder of the bond, or, if that person has died or is insolvent or under some legal disability, by his or her legal representative; or
- (b) by the person duly appointed by the holder of the bond under a resolution—
 - (i) accepted and filed by the Registrar of Deeds for a period of twelve months; or
 - (ii) certified by a legal practitioner as being a true extract from the minutes of a meeting of the mortgagee; or

- (c) by the person duly appointed by the mortgagee under a power of attorney executed by the mortgagee before a legal practitioner.
- (4) The consent shall—
 - (a) state the ranking and type of mortgage bond; and
 - (b) state the date of its registration and its registration number; and
 - (c) state the full name, date of birth and identity number of the mortgagor and/or mortgagee, if individuals; or
 - (d) state the full names and registration numbers of the mortgagor and/or mortgagee, if entities; and
 - (e) state the amount secured; and
 - (f) have attached to each copy of it one copy, signed in the original, and one certified copy of such resolution and/or power of attorney, as may be appropriate, referred to in item (ii) of paragraph (b) of subsection (3) and paragraph (c) of subsection (3); and
 - (g) be lodged in duplicate, one copy of which shall be annexed to the mortgagee's copy of the bond and the other shall be retained by the Registrar.

(5) Where more than one bond is affected by any consent referred to in subsection (1) the Registrar shall require an additional duplicate or a copy certified by the conveyancer or notary to be furnished for annexure to each additional bond.

Land subject to usufruct or similar interest

44. Where land which is to be mortgaged is held subject to a usufruct or other limited interest the Registrar may require that the conditions of the usufruct or interest are set out in the bond or suitable reference to the conditions is contained in the bond.

Reduction of cover or part payment

45. Where any bond is lodged for the purpose of noting any reduction of cover or part payment thereon it shall not be necessary to note the reduction of cover or part payment on the title deed of the land mortgaged.

PART VII

CANCELLATION OF LOST OR DESTROYED MORTGAGE BONDS

Application to cancel lost or destroyed mortgage bond

46. (1) Any person who wishes to cancel a mortgage bond which has been lost or destroyed shall apply to the registrar in writing.

(2) An application in terms of subsection (1) shall —

- (a) be signed before a notary public by the holder of the bond, or, if that person has died or is insolvent or under some legal disability, by his or her legal representative; or
- (b) be signed by the person duly appointed by the holder of the bond under a resolution—
 - (i) accepted and filed by the Registrar of Deeds for a period of twelve months; or
 - (ii) certified by a notary public as being a true extract from the minutes of a meeting of the mortgagee; or
- (c) be signed by the person duly appointed by the mortgagee under a power of attorney executed by the mortgagee before a notary public; and
- (d) include a solemn declaration by the applicant stating—
 - (i) that the bond has been lost or destroyed; and
 - (ii) that at the time of the loss or destruction he or the person he or she represents, as the case may be, was the legal holder of the bond; and
 - (iii) that to the best of his knowledge at the time of its loss or destruction the bond was not pledged or ceded to any person or otherwise detained as security for a debt or otherwise; and
 - (iv) if it is alleged that the bond is lost, that a diligent search for the bond has been made; and
 - (v) that he or she consents to the cancellation of the bond; and
 - (vi) that he or she undertakes that if the bond is found he or she will transmit it forthwith to the Registrar; and

- (vii) if possible, the circumstances in which the bond was lost or destroyed; and
- (d) accompanied by proof that the notices required by section 48 have been published.

Registrar may call for evidence of loss or destruction of bond

47. If the Registrar is of the opinion that further evidence is necessary to establish the loss or destruction of a mortgage bond to which an application in terms of section 46 relates, he or she may call for such evidence from the applicant or from any other person in whose custody the bond may have been before the loss or destruction thereof.

Publication of application

48. A person who wishes to apply in terms of section 46 for the cancellation of a mortgage bond shall cause notice of, the proposed application to be published in form D.R.9—

- (a) in the *Gazette*; and
- (b) in one issue of a newspaper circulating in the area in which the land mortgaged is situated;

inviting persons having any objection to, or wishing to make representations in connection with the cancellation of the bonds to lodge their objections or representations in writing at the Deeds Registry within fourteen days of the date of publication of the notice.

Cancellation of bond

49. The Registrar shall cancel a mortgage bond in respect of which an application has been made in terms of section 46 if he or she is satisfied that—

- (a) notice of the application has been published in accordance with the requirements of section 48; and
- (b) a period of not less than 14 days has elapsed since the publication of the notices referred to in paragraph (a); and
- (c) no valid objection to the cancellation of the bond has been lodged; and
- (d) there is no good reason why he or she should refuse to cancel the bond.

PART VIII

GENERAL

Appeals from decision of the Registrar

50. An appeal from any decision of the Registrar in terms of the Act or these regulations shall lie to the Chief Registrar of Deeds who shall, after due inquiry, confirm, vary or set aside such decision.

Identification

51. (1) In this section—

“identity document” means—

- (a) a document issued to a person in terms of section 7(1) or (2) of the National Registration Act [Chapter 10:17]; or
- (b) any passport, identity document or driver’s licence issued by a government of Zimbabwe or any passport issued by foreign government.

(2) The identity of any person mentioned in any document, including a person who is acting in or is appointed to act in a representative capacity, shall be established by means of his or her identity document.

(3) The full name and date of birth of any person mentioned in any document, including a person who is acting in or is appointed to act in a representative capacity shall be entered in the register in which transactions relating to such persons are recorded:

Provided that where the date of birth of a person is not evident from any identity document furnished by that person under subsection (2), the Registrar may enter in the register an estimation of the date of birth.

(4) Where in a deed of transfer or other documents for the purposes of these regulations the full name of any person and date of birth of any person is required to be given the following shall be given instead where the person is a juristic person—

- (a) the incorporation number appearing on a certificate of incorporation in the case of a company registered in

terms of the Companies Act [*Chapter 24:03*] or a private business registered in terms of the Private Business Corporations Act [*Chapter 24:11*];

- (b) the number assigned by the Registrar to a trust which is created in terms of a notarial deed of donation and trust which is registered by the Registrar of Deeds;
- (c) the number issued by the authority for registered private voluntary organisations in terms of the Private Voluntary Organisations Act [*Chapter 17:05*] in the case of such organisation.

(5) In the absence of the forms of identity mentioned above any other number allocated by an acceptable authority, including tax identification and business partner numbers.

(6) A copy certified as a true copy of the proof of identity of a person who has or who is acquiring rights or interest in immovable property shall be lodged with documents for registration and shall be retained in a personal register administered by the Registrar.

Postponement of examination of documents

52. If in any document there is discovered a defect of a material nature the Registrar may direct that the further examination of the documents be postponed until the defect has been rectified.

Documents to be endorsed or initialled

53. The Registrar shall refuse to accept for registration any document other than a notarial deed if such document is not endorsed or initialled as required by these regulations.

Notarial bonds

54. The provisions of sections 44, 45, 48, 49 and 50 shall, with the necessary changes, apply in relation to notarial bonds as they apply in relation to mortgage bonds save that the publication of a proposed application for the cancellation of a notarial bond which has been lost or destroyed shall be published in the *Gazette* and in one issue of a newspaper circulating in the area in which the applicant is ordinarily resident.

Lease, sub-lease, servitude or exclusive right of occupation relating to portion of land

55. If a lease, sub-lease, servitude or exclusive right of occupation relating to only a portion of any piece of land is to be registered a diagram of such portion shall be annexed to each copy of the deed of lease, sub-lease, servitude or notarial deed created in terms of section 27 of the Act lodged for registration, unless such portion can be described to the satisfaction of the registrar without any diagram.

Lease, sub-lease or exclusive right of occupation relating to a portion of building

56. If a lease, sub-lease or exclusive right of occupation of a portion of a building is to be registered there shall be annexed to the deed of lease, sub-lease or notarial deed created in terms of section 27 of the Act—

- (a) a plan approved by the Surveyor-General showing the portion of the building; and
- (b) a diagram showing the position of the building in relation to the land.

Districts

57. (1) For the purposes of registration Zimbabwe has been divided into districts.

(2) The description of any land required by section 20 of the Act to be contained in any deed shall include a reference to the district in which such piece of land is situated.

Register of conveyancers and notaries publics

58. (1) Only conveyancers and notaries publics duly admitted and registered as such shall be entitled to appear before the Registrar of Deeds.

(2) The Registrar shall maintain a register of such conveyancers and notaries public which register shall be updated on a quarterly basis by arrangement with the Law Society of Zimbabwe.

Duties of the Deeds Registry

59. The Registrar of Deeds shall ensure that—

- (a) all deeds and other documents lodged for registration by his or her office are expeditiously examined, registered, and filed correctly in clearly labelled files kept in a cool, clean and dry environment; and
- (b) all deeds and documents of the same type shall be permanently bound together as soon as there are sufficient deeds or documents all present in numeric-chronological sequence to make up a book of not less than 50 mm but not more than 60 mm in width; and
- (c) deeds and documents made available for inspection by the public are used in secure conditions under close scrutiny and are returned to the Registry for filing as soon as the inspection has been completed; and
- (d) details of every user and details of every deed and document inspected by users are recorded in a permanent bound register; and
- (e) shall maintain an index of documents forwarded to the office of the Surveyor-General which index conveyancers may peruse by arrangement for purposes of following up transactions.

Fees of office

60. (1) Subject to the provisions of subsection (2), the fee to be paid in respect of any matter specified in the first column of the Second Schedule shall be that specified opposite thereto in the second column of that Schedule.

(2) No fee shall be charged for any matter if the fee would be paid from the Consolidated Revenue Fund.

Days and hours of business

61. (1) The Deeds Registry shall be open to the public on any week day which is not a public holiday.

(2) The public records kept by the Registrar shall be open to inspection by the public during the hours from 8 a.m. to 1 p.m. and 2 p.m. to 4 p.m. on any day that the Deeds Registry is open.

(3) Electronic services shall be available online anytime of the day throughout the year.

Conduct of business

62. All business with the Deeds Registry shall be conducted electronically, or in person or through an agent. Business shall not be conducted by correspondence or by telephone, unless such conduct is invited by the Registrar of Deeds.

Repeals

63. The Deeds Registries Regulations, 1977, published in Rhodesia Government Notice No. 249 of 1977, are repealed.

FIRST SCHEDULE

(Sections 14, 15, 16, 17, 18 and 19)

FORMS

Deeds Registries Regulations, 2018

Form D.R. 1

CERTIFICATE OF STATE TITLE

(Issued in terms of section 17(2) of the Deeds Registries Act [*Chapter 20:05*])

Prepared by me

.....
CONVEYANCER

WHEREAS the Minister has applied in terms of subsection (2) of section 17 of the Deeds Registries Act [*Chapter 20:05*] for the issue of a Certificate of State Title in respect of the under-mentioned land, being unalienated State land which has been separately surveyed and is shown on the diagram annexed hereto:

NOW, THEREFORE, in pursuance of the said provisions of the said Act I, the Registrar of Deeds, do hereby certify that the

PRESIDENT OF ZIMBABWE

Is the registered owner of (description of land)

Signed and sealed at on this day of 20.....

.....
Registrar of Deeds

Form D.R.2

DEED OF TRANSFER

Details of firm/partnership

Prepared by me

.....
CONVEYANCER

Appearer:

Power of Attorney given at:

Date:

Transferor:

Full name, date of birth and identity document number

Transferee:

Full name, date of birth and identity document number

Reasons for Transfer:

Date of Contract (made between Transferor and Transferee)

Property Description and Area:

Physical Address

Diagram Deed Number:

Dated:

In favour of

Current Holding Deed:

Dated:

In favour of:

Dispensation/General Plan:

Diagram Number:

General Conditions:

Special conditions:

Not subject to:

Any other conditions:

Purchase price/value:

Signed and sealed at Harare

Dated

Appearer

Registrar of Deeds

Form D.R. 3

DEED OF PARTITION TRANSFER

(Issued in terms of section 27 of the Deeds Registries Act [*Chapter 20:05*])

Prepared by me

.....
CONVEYANCER

KNOW ALL WHOM IT MAY CONCERN

THAT (*full name*)

Appeared before me, Registrar of Deeds, he or she being duly authorized thereto by, a power of attorney granted to him by (full names of parties to partition)

AND THE APPEARER DECLARED THAT

WHEREAS his or her said principals held in joint ownership (description of land to be partitioned, giving shares held by joint owners and numbers and dates of their titles)

Deeds Registries Regulations, 2018

AND WHEREAS his or her said principals have agreed to alter the tenure upon which the said property has been held by them by subdividing the same according to their respective interest therein and receiving transfer of such subdivided portions;

NOW, THEREFORE, he or she in his or her capacity as legal practitioner foresaid, does hereby transfer to (full name)

Certain piece of land being (description of land and conditions as required by section 20 of the Act)

Signed and sealed at on this.....day of 20.....

.....
q.q (*Signature of Appearer*)

In my presence

.....
Registrar of Deeds

Form D.R. 4

CERTIFICATE OF REGISTERED TITLE

(Issued in terms of section 34, 35, 36, 37, 38, 39 and 41 of the Deeds Registries Act, [*Chapter 20:05*])

Details of firm/partnership

Prepared by me

.....
CONVEYANCER

KNOW ALL WHOM IT MAY CONCERN

THAT (*full name*)

Who is the registered owner of (*description of land or share held by him and quote number and date of deed*)

has applied for the issue, of a certificate registered title in terms of—

section 35 of the Deeds Registries Act [*Chapter 20:05*] in respect of the above-mentioned land;*

section 34 of the Deeds Registries Act [*Chapter 20:05*] in lieu of (*describe deed*)

No. dated which has been lost or destroyed relating, to the above-mentioned land described therein which is held in joint ownership;*

Deeds Registries Regulations, 2018

Form D.R. 6

FORM OF NOTICE IN TERMS OF SECTION 38 OF THE
DEEDS REGISTRIES ACT [*Chapter 20:05*]

I, the Registrar of Deeds, intend issuing a Certificate of Registered Title *in lieu* of (*describe deed*)

No. Dated passed by (*full name of transferor*)

In favour of (*full name of person in favour of whom deed was passed*)

In respect of certain (*description of land*)

Which deed has been lost or destroyed.

All persons having any objection to, or wishing to make any representations in connection with, the issue of such certificate are hereby required to lodge the same in writing at the Deeds Registry, before the (*specify date which shall be six weeks after date of first publication of notice in Gazette*)

.....
Registrar of Deeds

Form D.R. 7

CONSENT TO SUBSTITUTION

(In terms of section 51 of the Deeds Registries Act [*Chapter 20:05*])

Details of firm/partnership

Prepared by me

.....
CONVEYANCER

WHEREAS I (*full name*)

Am the legal holder of Mortgage Bond No.

Passed by (*full name*)

For the sum of

Whereby was hypothecated certain (description of land)

AND WHEREAS—

- (a) the said bond is a continuing covering bond for the sum of \$..... *;
- (b) there still remains due and owing under the said bond the amount of \$.....* (*where amount*)

remaining due and owing is less than that reflected in bond, a consent to reduction of cover or noting of part payment must be lodged),

AND WHEREAS the said *(full name)*
Has agreed to transfer the aforesaid land to *(full name)*
Who is willing to take over the liability of the said *(full name)*
Under the said bond and to be substituted for the said transferor as the debtor under the said bond;

NOW, THEREFORE, I, agree that the proposed transferee shall be substituted as debtor under the said bond and that from the date of execution of the proposed transfer the transferor shall be released from any obligation under the said bond.

Dated at on this day of 20.....

AS WITNESSES:

1.
2.

.....
Signature of mortgagee

(*Omit whichever is not applicable.)

AND I *(full name)*

The proposed transferee aforesaid, having read the above consent of the legal holder of the said bond, do accept transfer of the land subject to the said bond and agree to be substituted for the transferor as debtor there-under and assume full liability for the indebtedness under the said bond.

Dated at on this day of 20.....

AS WITNESSES:

1.
2.

.....
Signature of proposed transferee

Deeds Registries Regulations, 2018

Form D.R. 8

NOTICE OF APPLICATION FOR COPY OR REPLACEMENT OF DEED

NOTICE is hereby given that I intend to apply for a certified copy of (*state type of deed, i.e. deed of transfer, certificate of registered title, certificate of consolidated title, deed of grant, mortgage bond, notarial bond, etc., and give full names of parties to the deed, description of property involved and, in the case of a bond, the amount thereof*)

All persons having any objection to, or wishing to make any representation in connection with, the issue of such copy are hereby required to lodge the same, in writing, at the Deeds Registry, Harare/Bulawayo within fourteen days from the date of publication of this notice.

Applicant (*full name*)

Residential address:

Form D.R. 9

NOTICE OF APPLICATION FOR CANCELLATION OF MORTGAGE BOND

NOTICE is hereby given that I intend to apply for the cancellation of Mortgage Bond No.

For \$..... passed on the day of 20....

By (*full name and residential address*)

In favour of (*full name and residential address*)

Hypothecating certain (*description of land*)

Whereof (*full name and, if not person named above, residential address*) is the present registered holder.

All persons claiming to have any right or title in or to the said bond, which is lots/has been destroyed,* are hereby required to lodge their objections or representations, in writing, at the Deeds Registry, Harare/Bulawayo,* within fourteen days from the date of publication of this notice.

Applicant (*full name*)

Residential address:

*Omit or delete what is not applicable.

Deeds Registries Regulations, 2018

SECOND SCHEDULE (Section 60)

FEES

US\$

1. For rental of a lodging box per year or part thereof 120,00
2. Application for registration as a User 100,00
3. User renewal per year 100,00
4. For the registration of a document which is required to be attested
Or prepared by a Conveyancer or Notary Public
 - (a) Where stamp duty is payable 20,00
 - (b) Where stamp duty is not payable..... 50,00
5. For any act done by the Registrar which is not referred to elsewhere
in this Schedule 20,00
6. For Certification of any document 20,00
7. For every report prepared for copy by the Registrar 20,00
8. For noting or uplifting of a caveat 20,00
9. For a search conducted for any document..... 1,00
10. For the copy of any document per page 1,00
11. For each entry extracted for any register for publication in newspaper
or periodical..... 1,00

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10-1-20



10-1-20