rural development
& land reform
Department:
Rural Development & Land Reform
REPUBLIC OF SOUTH AFRICA

CHIEF REGISTRAR'S CIRCULAR NO. 18 OF 2014

RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)

1. Application of this Circular and withdrawal of CRC 2 of 1995

The Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) (hereinafter referred to as *'the Act"),* has been amended several times since its proclamation in 1994. The provisions contained in CRC 2 of 1995 are accordingly out-dated and the said Circular is therefore withdrawn and substituted with this Circular.

2. Commencement and Purpose of the Act

The Act came into operation on 2 December 1994.

The purpose of the Act is to provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected therewith.

3. Impact of certain provisions of the Act on deeds registration procedures

3.1. Registration of land in the name of the State

3.1.1. Where, in terms of the Act, land is acquired or expropriated in order to be restored or awarded to a claimant, such land vests in the State, which must transfer it to a claimant (section 42A(1) of the Act).

3.1.2. The vesting of the land in the name of the State, as contemplated in section 42A of the Act, must be by means of the registration of :-

3.1.2.1. A transfer by endorsement in terms of section 16 of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or

3.1.2.2. A Deed of Transfer in terms of section 31 of Act No. 47 of 1937 (Form G).

3.2. Registration of land in the name of a claimant

3.2.1 Land that has vested in the State (item 3.1.1 above), must be transferred to the claimant by means of a conventional deed of transfer or by means of a deed of grant.

3.2.2 Transfer of land to a claimant from the registered owner may be transferred by means of a conventional deed of transfer or, in view of the provision of section 35(7) of the Act, by means of a deed of transfer as contemplated by section 33 of Act No. 47 of 1937.

3.3. Certain laws not applicable in respect of land restored or awarded

3.3.1. The laws governing the subdivision of agricultural land shall not apply in respect of any subdivision undertaken in order to restore or award land to any Claimant in terms of the Act (section 42B(1)).

- An exemption from complying with the provisions of the above legislation can only be granted upon the lodgement of proof to the effect that the land is to be restored or awarded as a result of a claim in terms of the provisions of this Act.

3.3.2. Section 42B(2) determines that the laws governing the establishment of townships shall not apply to land restored or awarded to any Claimant in terms of the Act, as long as that land is predominantly occupied by that Claimant.

- An exemption from complying with the provisions of the above legislation can only be granted upon the lodgement of proof to the effect that the relevant land is predominantly occupied by that Claimant.

3.4. Transfer duty and fees

3.4.1. Section 42A(2) provides for the exemption from the payment of duties, fees or other charges in respect of any registration relating to *the vesting of the land in the name of the State*, in terms of section 42A(1) of the Act (see par. 3.1 above).

3.4.2. In terms of section 42(1), the Minister *may* direct that any transfer duty or other fees, *payable by a Claimant* in respect of any transfer of land or of a right in land in terms of the Act, shall be defrayed in full or in part from money appropriated by Parliament for that purpose.

3.4.3. In section 42(2) it is further stated that the Minister *may*, in consultation with the Minister of Finance, direct that no transfer duty, stamp duty or other fees are payable by a Claimant *in respect of any transfer of land or of a right under this Act.*

3.4.4. It is important to note that the exemptions as contemplated in sections 42(1) and 42(2) are only granted upon a directive by the Minister. Such a directive will have to be lodged with the particular transfer of land or a right in land to a claimant, in terms of the Act.

CHIEF REGISTRAR OF DEEDS
DATE: 19/11/2014

REFERENCE : A6/2/P
RINGBINDER : 68

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