agriculture, land reform & rural development
Department:
Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE CHIEF REGISTRAR OF DEEDS
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CHIEF REGISTRAR'S CIRCULAR NO. 3 OF 2020

DEEDS REGISTRIES ACT, 1937 (ACT NO. 47 OF 1937) AMENDMENT OF REGULATIONS

And

SECTIONAL TITLES ACT, 1986 (ACT 95 OF 1986) AMENDMENT OF REGULATIONS

1. PURPOSE OF THIS CIRCULAR

The purpose of this circular is to inform about the amendments to the regulations of the Deeds Registries Act, 1937 (DRA), and the Sectional Titles Act, 1986 (STA), the effect thereof, and matters pertaining thereto.

2. DEEDS REGISTRIES ACT, 1937

2.1 Commencement of regulations

The amended regulations, published under Government Notice No. R.884 in Government Gazette No. 43614 dated 14 August 2020, shall be effective two months from date of publication thereof. The amended provisions must therefore be complied with from 13 October 2020

2.2 Nature and/or impact of the amendments

2.2.1 Amendment of regulations 43 and 44:

Sub regulation (1) of regulations 43 has been amended by requiring the disclosure in the preparation certificate to a deed of the Legal Practice Council Membership Number (LPCM Number), being the number allocated by the Legal Practice Council of the conveyancer that prepared the deed.

Sub regulation (1) of regulation 44 has been amended by requiring the disclosure in the preparation certificate to a document of the LPCM Number of the conveyancer, attorney or notary that prepared the document.

Sub regulation (5) of regulation 44 has also been amended by requiring the disclosure of the LPCM Number of the conveyancer that countersign the preparation certificate by an attorney or notary.

In view of the above, all deeds and documents lodged from date of commencement of the amended regulations, must comply with the abovementioned requirement. At the point of Data Preparation a verification will be performed to ascertain whether the Preparer was indeed eligible to prepare the deed.

The register contemplated by regulation 16 of the DRA will, as far as it affects legal practitioners that may prepare deeds and documents, be in electronic format and will replace all paper based registers held by Registrars. This is sanctioned by, and in line with the provision of section 3(1)(y) of the DRA.

2.2.2 Amendment of prescribed forms

The substitution for the preparation certificate in forms D, E, F, G, H, I, J, L, M, N, O, Q, R, V, Z, KK, LL, PP, QQ, RR, SS, YY, EEE, and FFF are consequential to the amendment of the above regulations.

2.3 Disclosure of legal practice council number of conveyancer's appointed as appearer in powers of attorney

There is a duty on registrars in terms of section 3 of the DRA, read with various other sections therein, to ensure that a duly appointed appearer is a conveyancer as defined in the Act. In order for Registrars to effectively fulfil this duty, and in view of section 4(1)(a) of the DRA, the LPCM Number of an appearer must be disclosed on the power of attorney in terms whereof such conveyancer is appointed as appearer, and also in brackets next to his/her name in the pre-amble of the relevant deed.

At Final Black Booking verification will be performed to verify whether the Practitioner stated as the Appearer in the deed is indeed eligible to appear in front of the Registrar for the purposes of Execution.

2.4 Disclosure of legal practice council number of notaries in respect of notarial deeds

For reasons mentioned under item 2.3, the LPCM Number of Notaries must be disclosed in the attestation clause below his/her signature.

At the point of Data Preparation a verification will be performed to ascertain whether the Notary was indeed eligible to attest the notarial deed.

3. SECTIONAL TITLES ACT, 1986

3.1 Commencement of regulations

The amended regulations, published under Government Notice No. R.883 in Government Gazette No 43614 dated 14 August 2020, shall be effective two months from date of publication thereof. The amended provisions must therefore be complied with from 13 October 2020

3.2 Nature and/or impact of the amendments

3.2.1 Regulation 15 is amended by the substitution of sub-regulation (4) thereof.

Regulation 15(4) was amended in 2013 to provide for the lodgement of an application whereupon the Registrar must endorse the sectional title deeds as contemplated by section 14(5). In terms of section 14(5), however, a Registrar must endorse the deeds upon receipt of a notification from the SG.

Seeing that a regulation cannot over-ride the provision of a section in an Act, the said sub-regulation (4) is now amended to follow the wording as it was prior to the 2013 amendment, but with the addition at the end thereof of the words "*and in the case of a substituted sectional plan, register such plan and substitute the registered sectional plan therewith.*"

3.2.2 Amendment of regulations 16A and 16B

The provisions of items 2.2, 2.3 and 2.4 apply *mutatis mutandis* to sectional title deeds and documents.

3.2.3 Amendment of prescribed forms

The substitution for the preparation certificate in forms B, C, F, G, H, J, L, M, O, P, Q, R, W, Z, AG, AH, AI, AJ, AK, and AO are consequential to the amendment of the above regulations.

4 GENERAL

A SOP will be issued that will address the internal standard operation procedures regarding the verification of conveyancers, notaries and attorneys, regarding deeds and documents for registration, supporting documents and other matters, (if any), pertaining thereto.

CHIEF REGISTRAR OF DEEDS
DATE: 28/8/2020

REFERENCE: A. 14/P AND 10/2/3
RINGBINDER 54
CHIEF REGISTRAR OF DEEDS
REGISTRARS OF DEEDS
DEEDS TRAINING
LAW SOCIETY OF SOUTH AFRICA: PRETORIA
LEGAL PRACTICE COUNCIL