

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. R. 428

12 MAY 2017

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

In terms of section 9(9) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), I, Gugile Ernst Nkwinti, Minister of Rural Development and Land Reform, hereby approves the regulations contained in the Schedule as made by the Deeds Registries Regulations Board under section 10 of the said Act.

The regulations will come into operation on the following dates:

- (a) The amendment to regulations 41 and 65, in clauses 3 and 4 hereof, will come into operation on the date of the coming into operation of the Deeds Registries Amendment Act, 2017; and
- (b) The amendment of the other regulations will come into operation one month from the date of publication hereof in the *Gazette*.



**NKWINTI, G E (MP)**

**MINISTER OF RURAL DEVELOPMENT AND LAND REFORM**

## **SCHEDULE**

### **Definitions**

1. In this Schedule "the Regulations" mean the Regulations promulgated by Government Notice No. R. 474 of 29 March 1963, as amended.

### **Amendment of regulation 24**

2. Regulation 24 of the Regulations is hereby amended by the addition of the following subregulation after subregulation (3):

“(4) Deeds, powers and other documents if executed outside the Republic, must disclose the place, country and date of execution thereof.”.

### **Amendment of regulation 41**

3. Regulation 41 of the Regulations is hereby amended by the substitution for subregulation (7) the following subregulation:

“(7) Any waiver of preference in respect of a registered real right in land (including rights mentioned in section sixty-six of the Act which may be contingent) to or in favour of a registered or registrable mortgage bond or lease shall, if such bond or lease has been registered, be contained in a notarial deed, and if such bond or lease has not been registered be contained in a notarial deed or in such bond or lease as the owner of such right may elect. Every waiver registered in terms hereof shall be duly noted on the owner's title to such right, and in the case of a registered bond or lease on such bond or lease.”.

### **Amendment of regulation 65**

4. Regulation 65 of the Regulations is hereby amended-

(a) by the substitution for subregulation (2) of the following subregulation:

“(2) Powers must specify the date and place of execution thereof, and if executed outside the Republic, also the name of the country.”;

(b) by the deletion of subregulation (6);

(c) by the deletion of subregulation (7);

(d) by the substitution for subregulation (8) of the following subregulation:

“(8) If at any time written notice is received from the mandant by the Registrar in charge of a Deeds Registry in which an original power has been registered after 1 January 1919, cancelling the same, the Registrar in charge of such Deeds Registry shall forthwith cause a suitable note of such cancellation to be made on the power, and shall sign or initial such note. The Registrar shall also, in case a copy had been issued for use in another Deeds Registry prior to the date of the coming into operation of the Deeds Registries Amendment Act, 2017, forthwith give notice, in writing, of such cancellation to the Registrar in charge thereof who, upon receipt of such notice, shall note thereon the time and date of receipt thereof and acknowledge the same, in writing, and shall further cause a suitable note of the cancellation to be made on the copy of the power, and sign or initial such note.”;

(e) by the substitution for subregulation (9) of the following subregulation:

“(9) A copy of any power accepted in terms of this regulation prior to the date of the coming into operation of the Deeds Registries Amendment Act, 2017, shall serve all the purposes of the original until the notice specified in the preceding sub-regulation has been received by the Registrar in charge of the Deeds Registry in respect of which the same was issued.”; and

(f) by the substitution for subregulation (10) of the following subregulation:

“(10) Any copy of a power certified under the hand and seal of a Registrar of or Master of a High Court in any of the Provinces and lodged in any Deeds Registry prior to the date of the coming into operation of the Deeds Registries Amendment Act, 2017, or under the hand and seal of a Registrar of Deeds, which copy shall have been lodged in a Deeds Registry prior to 1 January 1919, shall also be recognized for such purposes: Provided that when it is sought by virtue of any copy of a power referred to in this subregulation to perform any act before a Registrar of Deeds there shall be produced to the Registrar concerned a letter or certificate, signed by the officer in charge of the office or Registry, as the case may be, from which such copy was issued, dated not more than twenty-one days prior to the date of production thereof, evidencing that no notification of revocation of the original power had been received up to the date of such letter or certificate.”.

#### **Amendment of regulation 68**

5. Regulation 68 of the Regulations is hereby amended by the substitution for subregulation (11) the following subregulation:

“(11) If the registered holder of a mortgage or notarial bond (which has been lost, destroyed or is unserviceable) or his or her duly authorised agent desires to procure cancellation of the bond, and has made written application duly witnessed to the Registrar to cancel such bond, and has complied, *mutatis mutandis*, with the provisions of subregulations (1), (2) and (3) of this regulation, the Registrar shall, if he or she is satisfied that no good reason to the contrary exists, cancel the registration duplicate of such bond, and such cancellation shall be deemed to be a cancellation of such bond notwithstanding that the original of such bond was not submitted for cancellation.”.

#### **Short title**

6. These regulations shall be known as the Deeds Registries Amendment Regulations, 2017.