

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1022

18 December 2013

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

Act No. 34 of 2013: Deeds Registries Amendment Act, 2013



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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(English text signed by the President)
(Assented to 14 December 2013)

ACT

To amend the Deeds Registries Act, 1937, so as to provide discretion in respect of the rectification of errors in the name of a person or the description of property mentioned in deeds and other documents; to provide for the issuing of certificates of registered title taking the place of deeds that have become incomplete or unserviceable; to substitute an obsolete reference; to substitute an outdated heading; to delete reference to the repealed Agricultural Credit Act, 1966; to further regulate the updating of deeds in respect of the change of names of companies, close corporations and the surnames of persons; to amend a definition; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 4 of Act 47 of 1937, as amended by section 3 of Act 43 of 1957 and section 2 of Act 170 of 1993

1. Section 4 of the Deeds Registries Act, 1937 (Act No. 47 of 1937) (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (1) for subparagraph (iii) of paragraph (b) of the following subparagraph:

- “(iii) if the error is common to two or more deeds or other documents, including any register in his or her registry, the error shall be rectified in all those deeds or other documents, unless the registrar, on good cause shown, directs otherwise;”.

Amendment of section 38 of Act 47 of 1937

2. Section 38 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:
“**Certificate of registered title taking place of lost, or destroyed, incomplete or unserviceable deed**”;

- (b) by the substitution for subsection (1) of the following subsection:

“(1) If the title deed of any land has been lost, or destroyed, incomplete or unserviceable, and the registry duplicate of such title deed has also been lost, or destroyed, incomplete or unserviceable, the registrar shall, on written application by the owner of the land, accompanied by a diagram of the land, if no diagram thereof is filed in the registry or in the office of the surveyor-general concerned, execute a certificate of registered title in respect of such land in accordance with the diagram of the land.”; and

(c) by the substitution for subsection (5) of the following subsection:

“(5) A certificate of registered title issued under this section shall be as nearly as practicable in the prescribed form and shall take the place of the lost, [or] destroyed, incomplete or unserviceable title deed and shall embody or refer to every condition, servitude, bond, lease or other encumbrance which according to the records of the registry was embodied or referred to in the lost, [or] destroyed, incomplete or unserviceable title deed or in any endorsement thereon.”.

Amendment of section 44 of Act 47 of 1937, as amended by section 18 of Act 43 of 1962, section 16 of Act 87 of 1965, section 5 of Act 92 of 1978, section 53 of Act 24 of 2003 and section 1 of Act 11 of 2005

3. Section 44 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If rectification of title is required in respect of any one piece of land in consequence of a survey or re-survey of such land or of the correction of any error in the diagram thereof under the Land Survey Act, [1927] 1997, the registrar may, on written application by the owner of the land accompanied by the title deed and the new or the corrected diagram thereof, any bond thereon and any registered deed of lease or other registered deed whereby any real right therein is held by any other person and the written consent of the holder of such bond, lease or right, endorse on the aforesaid deed a description of the land according to the new or corrected diagram, which description shall supersede the description already appearing in the aforesaid deeds.”.

Amendment of section 48 of Act 47 of 1937, as amended by section 6 of Act 61 of 1969

4. Section 48 of the principal Act is hereby amended by the substitution for the heading of the following heading:

“Special provisions regarding a bond over land in [a Rand township] the area of jurisdiction of the deeds registry at Johannesburg and other land”.

Amendment of section 56 of Act 47 of 1937, as amended by section 26 of Act 43 of 1957, section 23 of Act 87 of 1965, section 8 of Act 3 of 1972, section 15 of Act 27 of 1982 and section 16 of Act 14 of 1993

5. Section 56 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) by the trustee of an insolvent estate, an executor administering and distributing an estate under section 34 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), the liquidator of a company or a close corporation which is unable to pay its debts and which is being wound up by or under the supervision of the court or the Master [a liquidator or trustee elected or appointed under the Agricultural Credit Act, 1966 (Act No. 28 of 1966)]; or”.

Amendment of section 93 of Act 47 of 1937, as amended by section 38 of Act 43 of 1957, section 36 of Act 43 of 1962, section 21 of Act 27 of 1982 and section 21 of Act 14 of 1993

6. Section 93 of the principal Act is hereby amended by the substitution in subsection (1) for paragraphs (a), (b) and (c) of the following paragraphs:

“(a) if it appears from such deed or other document that any other person is affected by such change of name, such other person shall (save for the registration of a change of name of a company or close corporation) consent in writing to the aforesaid endorsement;

- (b) the application shall (save for the registration of a change of name of a company or close corporation) be accompanied by any other operative deed registered in the same registry in which the applicant's old name appears as a party thereto other than as transferor or cedent; and
- (c) a **[woman]** person— 5
- (i) who assumes his or her [husband's] spouse's surname or resumes his or her former surname; or
- (ii) who, whether in a civil union, married or divorced, or a widow, adds to the surname which he or she assumed after the union or marriage, any surname which he or she bore at any prior time, 10
- shall not be obliged to record such assumption or resumption of surname against any registered deed or other document to enable him or her to deal with land or a real right in land held by him or her under such deed or other document.”.

Amendment of section 102 of Act 47 of 1937, as amended by section 12 of Act 3 of 1972, section 22 of Act 27 of 1982, section 9 of Act 62 of 1984, section 4 of Act 75 of 1987, section 7 of Act 3 of 1988, section 6 of Act 24 of 1989, section 32 of Act 113 of 1991, section 22 of Act 14 of 1993, section 74 of Act 120 of 1993, section 68 of Act 67 of 1995, section 9 of Act 11 of 1996, section 10 of Act 11 of 1996, Proclamation R9 of 31 January 1997, section 10 of Act 93 of 1998, section 2 of Act 9 of 2003, section 53 of Act 24 of 2003, section 46 of Act 11 of 2004 and section 6 of Act 12 of 2010 15 20

7. Section 102 of the principal Act is hereby amended by the substitution for the definition of “deeds registry” of the following definition:

- “**‘deeds registry’** means—
- (a) when used in relation to immovable property, the deeds registry which serves the area in which that property is situate; 25
- (b) when used in relation to any deed or other document, any deeds registry in the Republic wherein that deed or other document is registered or registrable; or
- (c) when used in relation to a registrar, the deeds registry of which he or she is in charge [, 30
- but does not include the mining titles office referred to in section three of the Registration of Deeds and Titles Act, 1909 (Act No. 25 of 1909) of the Transvaal];”.**

Short title

8. This Act is called the Deeds Registries Amendment Act, 2013. 35