

REPUBLIC OF SOUTH AFRICA

ELECTRONIC DEEDS REGISTRATION SYSTEMS BILL

*(As introduced in the National Assembly as a section 75 Bill; Bill published in
Government Gazette No. of)(The English text is the official text of the
Bill)*

(MINISTER OF RURAL DEVELOPMENT AND LAND REFORM)

[B – 2017]

BILL

To provide for electronic deeds registration, having regard to legislation regulating electronic communication and transactions; and to provide for matters connected therewith.

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

ARRANGEMENT OF SECTIONS

1. Definitions
2. Development, establishment and maintenance of the Electronic Deeds Registration System
3. Validity of deeds and documents
4. Authorised users
5. Regulations
6. Transitional provisions
7. Short title and commencement of Act

Definitions

1. In this Act, unless the context indicates otherwise—

"authorised user" means a user of the electronic deeds registration system contemplated in section 4 and **"user"** has a corresponding meaning;

"Chief Registrar" means the Chief Registrar of Deeds appointed in terms of section 2 of the Deeds Registries Act;

"conveyancer" means a conveyancer as defined in section 102 of the Deeds Registries Act;

"deed or document", for the purpose of any act of registration, execution or filing in terms of the Deeds Registries Act and Sectional Titles Act or any other law, means a deed or document in the form of a data message as defined in the Electronic Communications and Transactions Act, generated, submitted, received or stored by electronic means in the electronic deeds registration system, and includes scanned images of a deed or document;

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

"deeds registry" means a deeds registry as defined in section 102 of the Deeds Registries Act;

"Electronic Communications and Transactions Act" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"electronic deeds registration system" means the electronic deeds registration system contemplated in section 2;

"executed" means executed in a deeds registry;

"Minister" means the Minister of Rural Development and Land Reform;

"notary public" means a notary public as defined in section 102 of the Deeds Registries Act;

"owner" means an owner as defined in section 102 of the Deeds Registries Act;

"prescribe" means prescribe by regulations;

"registered" means registered in a deeds registry and includes registration;

"Registrar" means the Registrar of Deeds appointed in terms of section 2 of the Deeds Registries Act;

"regulation" means a regulation made under section 5;

"Sectional Titles Act", means the Sectional Titles Act, 1986 (Act No. 95 of 1986); and

"signature" in respect of any act performed in terms of the Deeds Registries Act and Sectional Titles Act by a conveyancer, notary public, statutory officer or Registrar in attesting his or her signature to a deed or document or a scanned image of a deed or document in respect of the registration thereof, means an advanced electronic signature as defined in section 1 of the Electronic Communications and Transactions Act, and

"electronic signature" has a corresponding meaning.

Development, establishment and maintenance of Electronic Deeds Registration System

2. (1) The Chief Registrar of Deeds must, subject to the Electronic Communications and Transactions Act, develop, establish and maintain the electronic deeds registration system using information and communications technologies for the preparation, lodgment, registration, execution and storing of deeds and documents.

(2) In achieving the objectives contemplated in subsection (1), the Chief Registrar of Deeds may, after consultation with the Regulations Board referred to in section 9 of the Deeds Registries Act, issue directives for—

- (a) the functional requirements of the electronic deeds registration system;
- (b) the technical specifications for the electronic deeds registration system;
- (c) the specifications for the interface between the electronic deeds registration system and any party interfacing in the system which will be authorised to access the electronic deeds registration system;
- (d) the standards governing the information security of the electronic deeds registration system;
- (e) the operation of the electronic deeds registration system;
- (f) the processing of deeds and documents using the electronic deeds registration system;
- (g) the retention and subsequent production of deeds and documents, or any other electronic records, which may be pertinent to the registration of rights in the deeds registry or that may be required for the administrative or legal proceedings

that must be complied with by users interacting with the electronic deeds registration system; and

(h) any other matter specifically provided for in this Act.

Validity of deeds and documents

3. Subject to section 14 of the Electronic Communications and Transactions Act, a deed or document generated, registered and executed electronically and any other registered or executed deed or document scanned or otherwise incorporated into the electronic deeds registration system by electronic means is for all purposes deemed to be the only original and valid record.

Authorised users

4. Any user of the electronic deeds registration system authorised by the regulations must be registered in the manner and under the conditions as may be directed by the Chief Registrar of Deeds.

Regulations

5. (1) The Minister may, on the recommendation of the Regulations Board referred to in section 9 of the Deeds Registries Act, make regulations relating to—

(a) the procedures for the electronic lodgement of deeds or documents;

- (b) the procedures for electronic record storing by deeds registries;
- (c) the manner of identification of the person who prepares, executes, lodges, registers or stores any deed or document required or permitted to be prepared, executed, lodged, registered or stored in any deeds registry;
- (d) the manner in which electronic payment of fees may be introduced;
- (e) the procedure and manner for accessing the electronic deeds registration system for information purposes only;
- (f) the authorisation of any user of the electronic deeds registration system, as contemplated in section 4; and
- (g) any matter that may be necessary to give effect to the objectives of this Act.

(2) The Minister must, before making regulations in terms of this Act—

- (a) publish the proposed regulations in the *Gazette* for public comments;
- (b) allow a period of at least 30 days for written comments on the proposed regulations; and
- (c) consider any such written comments received.

(3) The regulations must be published in the *Gazette*, and shall come into operation on a date specified in the relevant notice, which date must not be less than 30 days from the date of publication thereof.

Transitional arrangements

6. (1) This Act does not affect the validity of any registrations effected prior to the coming into operation thereof.

(2) The Registrar must continue with the registration, execution and filing of deeds and documents as prescribed by the Deeds Registries Act and the Sectional Titles Act, until the electronic deeds registration system, or related provisions or regulations are in place, where after the registration, execution and filing procedures in terms of the Deeds Registries Act and the Sectional Titles Act will be discontinued in respect of all deeds, documents or deeds registries.

(3) A conveyancer, notary public and statutory officer must continue with the preparation and lodgement of deeds and documents as prescribed by the Deeds Registries Act and the Sectional Titles Act, until the electronic deeds registration system, or related provisions or regulations are in place, where after the preparation and lodgement procedures in terms of the Deeds Registries Act and the Sectional Titles Act will be discontinued in respect of all deeds, documents or deeds registries: Provided that any deed or document electronically executed or registered, shall be deemed to have been executed or registered in the presence of the Registrar by the owner or by a conveyancer authorised by power of attorney to act on behalf of the owner.

(4) Notwithstanding subsections (2) and (3), the Chief Registrar of Deeds may issue a directive for the continuation of the preparation, lodgement, registration, execution and filing of deeds and documents manually, as prescribed by the Deeds Registries Act and the Sectional Titles Act, whereupon a conveyancer, statutory officer and notary public may either use the said manual system or the electronic deeds registration system, until such period as may be determined by the Chief Registrar.

Short title and commencement of Act

7. (1) This Act is called the Electronic Deeds Registration Systems Act, 2017, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.

(2) The President may set different dates for the coming into operation of the different provisions of this Act or the different acts of registration under the Deeds Registries Act and Sectional Titles Act.

(3) The President may set different dates for the coming into operation of any or certain of the provisions of this Act for the different deeds registries.