

his or her interest in the section held by all of them all of the persons holding title shall signify their consent thereto by signing a power of attorney to make transfer, in compliance with subsection (2) of section 28, of the whole of the undivided share by virtue of the following *causa*—

- (a) in respect of the interest to be alienated the *causa* may include inheritance, donation *inter vivos*, sale, in terms of an order of court, and other lawful causes; or
- (b) in respect of the interest to be retained, but recorded in the new deed.

(3) The consideration clause in the new deed of title shall refer to the value of both the current alienation and the value of the remaining interest, the latter based on the value of the whole section as reflected in the prior deed less an amount equal to the value of the interest alienated.

Land referred to in more than one deed

36. (1) Where the title to land to be transferred or hypothecated is contained in more than one deed the Registrar may require the conveyancer to furnish a statement which—

- (a) contains particulars regarding the different fractional shares represented by each deed; and
- (b) in a complicated case, describes the method by which the result was arrived at; and
- (c) if there are two or more owners, indicates the shares held by each owner.

(2) Where the land referred to in subsection (1) is one of several pieces of land described in a transfer deed or mortgage bond the legal practitioner shall furnish a reference to the paragraph in the deed or bond which relates to such land.

Land where rights of owner limited

37. (1) Where—

- (a) land is transferred subject to any special condition; or
- (b) it appears from the deed produced to the Registrar that the land is held subject to a special condition;

which limits the rights of the owner in that land that condition shall be embodied in the deed and repeated in every subsequent deed conferring title to the land.

(2) Where it appears from a deed that an owner of land has acquired any right of servitude over other land, such right shall be specially referred to or mentioned and described in every deed conferring title to both the land in favour of which the servitude is created and the land which is subject to the servitude.

(3) Where a deed of grant contains conditions which are reserved in favour of the State—

- (a) the right to resume ownership of the land; or
- (b) the ownership of minerals;

in any subsequent deed conferring title to the land or a portion of the land concerned, particular of the said conditions shall be inserted by way of reference to the deed of grant instead of setting out the said conditions in full.

Transfer to rehabilitated insolvent where no trustee

38. A transfer by the Master in terms of the proviso to 52(2) of the Act shall be passed on a power of attorney signed by the Master.

Transfer by heir or legatee where value of property is less than cost of transfer

39. Where property is transferred or ceded to a purchaser in terms of proviso (ii) to subsection (1) of section 11 of the Act the deed of transfer or cession shall not be registered unless proof of the value of the property concerned is furnished by means of a written valuation made by a valuator approved by the Registrar.

Partition of land subject to fidei commissum where fidei commissary heirs not known

40. Where there has been a partition of land in terms of section 33(1) of the Act the transfer of any land in accordance with the provisions of paragraph (b) of that subsection shall not be registered unless proof that the land awarded on such partition to the owner of any share subject to the *fidei commissum* is an equivalent of that share

is furnished by means of a written report of a valuator approved by the Registrar.

PART VI

MORTGAGE BONDS

Details required in mortgage bond

41. (1) A mortgage bond shall contain a full and clear description of the land to be hypothecated, including the extent thereof.

(2) Where two or more pieces of land are to be hypothecated in one mortgage bond—

- (a) each piece of land shall be described in a separate paragraph which shall be numbered; and
- (b) the date and number of the deed by which the land is held shall be quoted in each paragraph:

Provided that, if more than one piece of land is held by one and the same deed the date and number of the deed may be quoted in a separate paragraph after the description of the last of the pieces of land held by that deed.

Partnerships

42. In the case of a mortgage bond in favour of a partnership, consent to any act of registration or cancellation in respect of that bond may be signified under a consent bearing the signatures of all the partners or the signature of a person appointed by the partners under resolution certified by a legal practitioner as being a true extract from the minutes of the relevant meeting of the partnership.

Consents

43. (1) Subject to the provisions of this section, the consent to the performance of any of the following acts in respect of a registered mortgage bond shall be upon a separate sheet of paper which is signed by the holder of the bond or his or her duly authorised agent and duly witnessed, recorded and filed by the Registrar of Deeds—

- (a) the cancellation of the bond;
- (b) the cancellation of a cession made as security;

- (c) any cession, whether made as security or otherwise;
- (d) any reduction of cover or noting of part payment of the capital amount due;
- (e) the release of the whole or of any portion of the land hypothecated;
- (f) the issue of a certificate of registered title or of consolidated title in respect of the land hypothecated;
- (g) any rectification of title in terms of section 42 of the Act in respect of the land hypothecated;
- (h) the registration of a servitude over the land hypothecated;
- (i) any release of a joint debtor or a surety;
- (j) the substitution of any other person for a debtor;
- (k) every waiver of preference in favour of another mortgage bond, whether registered or about to be registered;
- (l) any agreement between the mortgagor and the registered holder of the bond whereby any terms of the bond have been varied;
- (m) any other act for which consent is required in terms of the Act or any other law.

(2) A consent mentioned in subsection (1) shall describe the bond and shall specify the full name and date of birth and identification of the mortgagor.

(3) A consent shall be signed—

- (a) before a legal practitioner by the holder of the bond, or, if that person has died or is insolvent or under some legal disability, by his or her legal representative; or
- (b) by the person duly appointed by the holder of the bond under a resolution—
 - (i) accepted and filed by the Registrar of Deeds for a period of twelve months; or
 - (ii) certified by a legal practitioner as being a true extract from the minutes of a meeting of the mortgagee; or

- (c) by the person duly appointed by the mortgagee under a power of attorney executed by the mortgagee before a legal practitioner.
- (4) The consent shall—
- (a) state the ranking and type of mortgage bond; and
 - (b) state the date of its registration and its registration number; and
 - (c) state the full name, date of birth and identity number of the mortgagor and/or mortgagee, if individuals; or
 - (d) state the full names and registration numbers of the mortgagor and/or mortgagee, if entities; and
 - (e) state the amount secured; and
 - (f) have attached to each copy of it one copy, signed in the original, and one certified copy of such resolution and/or power of attorney, as may be appropriate, referred to in item (ii) of paragraph (b) of subsection (3) and paragraph (c) of subsection (3); and
 - (g) be lodged in duplicate, one copy of which shall be annexed to the mortgagee's copy of the bond and the other shall be retained by the Registrar.

(5) Where more than one bond is affected by any consent referred to in subsection (1) the Registrar shall require an additional duplicate or a copy certified by the conveyancer or notary to be furnished for annexure to each additional bond.

Land subject to usufruct or similar interest

44. Where land which is to be mortgaged is held subject to a usufruct or other limited interest the Registrar may require that the conditions of the usufruct or interest are set out in the bond or suitable reference to the conditions is contained in the bond.

Reduction of cover or part payment

45. Where any bond is lodged for the purpose of noting any reduction of cover or part payment thereon it shall not be necessary to note the reduction of cover or part payment on the title deed of the land mortgaged.

PART VII

CANCELLATION OF LOST OR DESTROYED MORTGAGE BONDS

Application to cancel lost or destroyed mortgage bond

46. (1) Any person who wishes to cancel a mortgage bond which has been lost or destroyed shall apply to the registrar in writing.
- (2) An application in terms of subsection (1) shall—
- (a) be signed before a notary public by the holder of the bond, or, if that person has died or is insolvent or under some legal disability, by his or her legal representative; or
 - (b) be signed by the person duly appointed by the holder of the bond under a resolution—
 - (i) accepted and filed by the Registrar of Deeds for a period of twelve months; or
 - (ii) certified by a notary public as being a true extract from the minutes of a meeting of the mortgagee; or
 - (c) be signed by the person duly appointed by the mortgagee under a power of attorney executed by the mortgagee before a notary public; and
 - (d) include a solemn declaration by the applicant stating—
 - (i) that the bond has been lost or destroyed; and
 - (ii) that at the time of the loss or destruction he or the person he or she represents, as the case may be, was the legal holder of the bond; and
 - (iii) that to the best of his knowledge at the time of its loss or destruction the bond was not pledged or ceded to any person or otherwise detained as security for a debt or otherwise; and
 - (iv) if it is alleged that the bond is lost, that a diligent search for the bond has been made; and
 - (v) that he or she consents to the cancellation of the bond; and
 - (vi) that he or she undertakes that if the bond is found he or she will transmit it forthwith to the Registrar; and

- (vii) if possible, the circumstances in which the bond was lost or destroyed; and
- (d) accompanied by proof that the notices required by section 48 have been published.

Registrar may call for evidence of loss or destruction of bond

47. If the Registrar is of the opinion that further evidence is necessary to establish the loss or destruction of a mortgage bond to which an application in terms of section 46 relates, he or she may call for such evidence from the applicant or from any other person in whose custody the bond may have been before the loss or destruction thereof.

Publication of application

48. A person who wishes to apply in terms of section 46 for the cancellation of a mortgage bond shall cause notice of, the proposed application to be published in form D.R.9—

- (a) in the *Gazette*; and
- (b) in one issue of a newspaper circulating in the area in which the land mortgaged is situated;

inviting persons having any objection to, or wishing to make representations in connection with the cancellation of the bonds to lodge their objections or representations in writing at the Deeds Registry within fourteen days of the date of publication of the notice.

Cancellation of bond

49. The Registrar shall cancel a mortgage bond in respect of which an application has been made in terms of section 46 if he or she is satisfied that—

- (a) notice of the application has been published in accordance with the requirements of section 48; and
- (b) a period of not less than 14 days has elapsed since the publication of the notices referred to in paragraph (a); and
- (c) no valid objection to the cancellation of the bond has been lodged; and
- (d) there is no good reason why he or she should refuse to cancel the bond.

PART VIII

GENERAL

Appeals from decision of the Registrar

50. An appeal from any decision of the Registrar in terms of the Act or these regulations shall lie to the Chief Registrar of Deeds who shall, after due inquiry, confirm, vary or set aside such decision.

Identification

51. (1) In this section—

“identity document” means—

- (a) a document issued to a person in terms of section 7(1) or (2) of the National Registration Act [*Chapter 10:17*]; or
- (b) any passport, identity document or driver’s licence issued by a government of Zimbabwe or any passport issued by foreign government.

(2) The identity of any person mentioned in any document, including a person who is acting in or is appointed to act in a representative capacity, shall be established by means of his or her identity document.

(3) The full name and date of birth of any person mentioned in any document, including a person who is acting in or is appointed to act in a representative capacity shall be entered in the register in which transactions relating to such persons are recorded:

Provided that where the date of birth of a person is not evident from any identity document furnished by that person under subsection (2), the Registrar may enter in the register an estimation of the date of birth.

(4) Where in a deed of transfer or other documents for the purposes of these regulations the full name of any person and date of birth of any person is required to be given the following shall be given instead where the person is a juristic person—

- (a) the incorporation number appearing on a certificate of incorporation in the case of a company registered in

terms of the Companies Act [Chapter 24:03] or a private business registered in terms of the Private Business Corporations Act [Chapter 24:11];

- (b) the number assigned by the Registrar to a trust which is created in terms of a notarial deed of donation and trust which is registered by the Registrar of Deeds;
- (c) the number issued by the authority for registered private voluntary organisations in terms of the Private Voluntary Organisations Act [Chapter 17:05] in the case of such organisation.

(5) In the absence of the forms of identity mentioned above any other number allocated by an acceptable authority, including tax identification and business partner numbers.

(6) A copy certified as a true copy of the proof of identity of a person who has or who is acquiring rights or interest in immovable property shall be lodged with documents for registration and shall be retained in a personal register administered by the Registrar.

Postponement of examination of documents

52. If in any document there is discovered a defect of a material nature the Registrar may direct that the further examination of the documents be postponed until the defect has been rectified.

Documents to be endorsed or initialled

53. The Registrar shall refuse to accept for registration any document other than a notarial deed if such document is not endorsed or initialled as required by these regulations.

Notarial bonds

54. The provisions of sections 44, 45, 48, 49 and 50 shall, with the necessary changes, apply in relation to notarial bonds as they apply in relation to mortgage bonds save that the publication of a proposed application for the cancellation of a notarial bond which has been lost or destroyed shall be published in the *Gazette* and in one issue of a newspaper circulating in the area in which the applicant is ordinarily resident.

Lease, sub-lease, servitude or exclusive right of occupation relating to portion of land

55. If a lease, sub-lease, servitude or exclusive right of occupation relating to only a portion of any piece of land is to be registered a diagram of such portion shall be annexed to each copy of the deed of lease, sub-lease, servitude or notarial deed created in terms of section 27 of the Act lodged for registration, unless such portion can be described to the satisfaction of the registrar without any diagram.

Lease, sub-lease or exclusive right of occupation relating to a portion of building

56. If a lease, sub-lease or exclusive right of occupation of a portion of a building is to be registered there shall be annexed to the deed of lease, sub-lease or notarial deed created in terms of section 27 of the Act—

- (a) a plan approved by the Surveyor-General showing the portion of the building; and
- (b) a diagram showing the position of the building in relation to the land.

Districts

57. (1) For the purposes of registration Zimbabwe has been divided into districts.

(2) The description of any land required by section 20 of the Act to be contained in any deed shall include a reference to the district in which such piece of land is situated.

Register of conveyancers and notaries publics

58. (1) Only conveyancers and notaries publics duly admitted and registered as such shall be entitled to appear before the Registrar of Deeds.

(2) The Registrar shall maintain a register of such conveyancers and notaries public which register shall be updated on a quarterly basis by arrangement with the Law Society of Zimbabwe.

Duties of the Deeds Registry

59. The Registrar of Deeds shall ensure that —

- (a) all deeds and other documents lodged for registration by his or her office are expeditiously examined, registered, and filed correctly in clearly labelled files kept in a cool, clean and dry environment; and
- (b) all deeds and documents of the same type shall be permanently bound together as soon as there are sufficient deeds or documents all present in numeric-chronological sequence to make up a book of not less than 50 mm but not more than 60 mm in width; and
- (c) deeds and documents made available for inspection by the public are used insecure conditions under close scrutiny and are returned to the Registry for filing as soon as the inspection has been completed; and
- (d) details of every user and details of every deed and document inspected by users are recorded in a permanent bound register; and
- (e) shall maintain an index of documents forwarded to the office of the Surveyor-General which index conveyancers may peruse by arrangement for purposes of following up transactions.

Fees of office

60. (1) Subject to the provisions of subsection (2), the fee to be paid in respect of any matter specified in the first column of the Second Schedule shall be that specified opposite thereto in the second column of that Schedule.

(2) No fee shall be charged for any matter if the fee would be paid from the Consolidated Revenue Fund.

Days and hours of business

61. (1) The Deeds Registry shall be open to the public on any week day which is not a public holiday.

(2) The public records kept by the Registrar shall be open to inspection by the public during the hours from 8 a.m. to 1 p.m. and 2 p.m. to 4 p.m. on any day that the Deeds Registry is open.

(3) Electronic services shall be available online anytime of the day throughout the year.

Conduct of business

62. All business with the Deeds Registry shall be conducted electronically, or in person or through an agent. Business shall not be conducted by correspondence or by telephone, unless such conduct is invited by the Registrar of Deeds.

Repeals

63. The Deeds Registries Regulations, 1977, published in Rhodesia Government Notice No. 249 of 1977, are repealed.

FIRST SCHEDULE

(Sections 14, 15, 16, 17, 18 and 19)

FORMS

Form D.R. 1

CERTIFICATE OF STATE TITLE

(Issued in terms of section 17(2) of the Deeds Registries Act [*Chapter 20:05*])

Prepared by me

.....
CONVEYANCER

WHEREAS the Minister has applied in terms of subsection (2) of section 17 of the Deeds Registries Act [*Chapter 20:05*] for the issue of a Certificate of State Title in respect of the under-mentioned land, being unalienated State land which has been separately surveyed and is shown on the diagram annexed hereto:

NOW, THEREFORE, in pursuance of the said provisions of the said Act I, the Registrar of Deeds, do hereby certify that the

PRESIDENT OF ZIMBABWE

Is the registered owner of (description of land)

Signed and sealed at on this day of 20.....

.....
Registrar of Deeds

Form D.R.2

DEED OF TRANSFER

Details of firm/partnership

Prepared by me

.....
CONVEYANCER

Appearer:

Power of Attorney given at:

Date:

Transferor:

Full name, date of birth and identity document number

Transferee:

Full name, date of birth and identity document number

Reasons for Transfer:

Date of Contract (made between Transferor and Transferee)
Property Description and Area:
Physical Address

Diagram Deed Number:

Dated:

In favour of

Current Holding Deed:

Dated:

In favour of:

Dispensation/General Plan:
Diagram Number:
General Conditions:
Special conditions:
Not subject to:
Any other conditions:
Purchase price/value:

Signed and sealed at Harare

Dated

Appearer

Registrar of Deeds

Form D.R. 3

DEED OF PARTITION TRANSFER

(Issued in terms of section 27 of the Deeds Registries Act [*Chapter 20:05*])

Prepared by me

.....
CONVEYANCER

KNOW ALL WHOM IT MAY CONCERN

THAT (*full name*)

Appeared before me, Registrar of Deeds, he or she being duly authorized thereto by, a power of attorney granted to him by (full names of parties to partition)

AND THE APPEARER DECLARED THAT

WHEREAS his or her said principals held in joint ownership (description of land to be partitioned, giving shares held by joint owners and numbers and dates of their titles)

AND WHEREAS his or her said principals have agreed to alter the tenure upon which the said property has been held by them by subdividing the same according to their respective interest therein and receiving transfer of such subdivided portions;

NOW, THEREFORE, he or she in his or her capacity as legal practitioner foresaid, does hereby transfer to (full name)

Certain piece of land being (description of land and conditions as required by section 20 of the Act)

Signed and sealed at on this day of 20.....

.....
q.q (Signature of Appearer)

In my presence

.....
Registrar of Deeds

Form D.R. 4

CERTIFICATE OF REGISTERED TITLE

(Issued in terms of section 34, 35, 36, 37, 38, 39 and 41 of the Deeds Registries Act, [Chapter 20:05])

Details of firm/partnership

Prepared by me

.....
CONVEYANCER

KNOW ALL WHOM IT MAY CONCERN

THAT (full name)
Who is the registered owner of (description of land or share held by him and quote number and date of deed)

has applied for the issue, of a certificate registered title in terms of—

section 35 of the Deeds Registries Act [Chapter 20:05] in respect of the above-mentioned land;*

section 34 of the Deeds Registries Act [Chapter 20:05] in lieu of (describe deed)

No. dated which has been lost or destroyed relating, to the above-mentioned land described therein which is held in joint ownership;*

section 36 of the Deeds Registries Act [Chapter 20:05] in lieu of (describe deed)

No. dated which has been lost or destroyed;*

section 39 of the Deeds Registries Act [Chapter 20:05] in respect of the under mentioned land being portion of the land registered in his or her name;*

NOW, THEREFORE, I, the Registrar of Deeds do hereby certify that the said (full name)

is the registered owner of certain piece of land being (description of land and conditions as required by the Act)

Signed and sealed at on this day of 20.....

.....
Registrar of Deeds

*Insert whichever is applicable

Form D.R. 5

CERTIFICATE OF CONSOLIDATED TITLE

(Issued in terms of section 40 of the Deeds Registries Act [Chapter 20:05])

Prepared by me

.....
CONVEYANCER

KNOW ALL WHOM IT MAY CONCERN

THAT WHEREAS (full name)
who is the registered owner of (description of pieces land and title deeds under which they are held)

which are to be consolidated into the land hereafter described, has applied for the issue of a certificate of consolidated title in terms of section 40 of the Deeds Registries Act [Chapter 20:05];

NOW, THEREFORE, I, the Registrar of Deeds, do hereby certify that the said (full name)

is the registered owner of (description of consolidated land and conditions as required by the Act)

Signed and sealed at on this day of 20.....

.....
Registrar of Deeds

Deeds Registries Regulations, 2018

Form D.R. 6

FORM OF NOTICE IN TERMS OF SECTION 38 OF THE DEEDS REGISTRIES ACT [Chapter 20:05]

I, the Registrar of Deeds, intend issuing a Certificate of Registered Title in lieu of (describe deed)

No. Dated passed by (full name of transferor)

In favour of (full name of person in favour of whom deed was passed)

In respect of certain (description of land)

Which deed has been lost or destroyed.

All persons having any objection to, or wishing to make any representations in connection with, the issue of such certificate are hereby required to lodge the same in writing at the Deeds Registry, before the (specify date which shall be six weeks after date of first publication of notice in Gazette)

Registrar of Deeds

Form D.R. 7

CONSENT TO SUBSTITUTION

(In terms of section 51 of the Deeds Registries Act [Chapter 20:05])

Details of firm/partnership

Prepared by me

CONVEYANCER

WHEREAS I (full name)

Am the legal holder of Mortgage Bond No.

Passed by (full name)

For the sum of

Whereby was hypothecated certain (description of land)

AND WHEREAS—

- (a) the said bond is a continuing covering bond for the sum of \$..... *;
(b) there still remains due and owing under the said bond the amount of \$.....* (where amount

S.I. 236 of 2018

remaining due and owing is less than that reflected in bond, a consent to reduction of cover or noting of part payment must be lodged);

AND WHEREAS the said (full name) Has agreed to transfer the aforesaid land to (full name) Who is willing to take over the liability of the said (full name) Under the said bond and to be substituted for the said transferor as the debtor under the said bond;

NOW, THEREFORE, I, agree that the proposed transferee shall be substituted as debtor under the said bond and that from the date of execution of the proposed transfer the transferor shall be released from any obligation under the said bond.

Dated at..... on this day of..... 20.....

AS WITNESSES:

- 1.
2.

Signature of mortgagee

(*Omit whichever is not applicable.)

AND I (full name)

The proposed transferee aforesaid, having read the above consent of the legal holder of the said bond, do accept transfer of the land subject to the said bond and agree to be substituted for the transferor as debtor there-under and assume full liability for the indebtedness under the said bond.

Dated at on this day of..... 20.....

AS WITNESSES:

- 1.
2.

Signature of proposed transferee

Deeds Registries Regulations, 2018

Form D.R. 8

NOTICE OF APPLICATION FOR COPY OR REPLACEMENT OF DEED

NOTICE is hereby given that I intend to apply for a certified copy of (*state type of deed, i.e. deed of transfer, certificate of registered title, certificate of consolidated title, deed of grant, mortgage bond, notarial bond, etc., and give full names of parties to the deed, description of property involved and, in the case of a bond, the amount thereof*)

All persons having any objection to, or wishing to make any representation in connection with, the issue of such copy are hereby required to lodge the same, in writing, at the Deeds Registry, Harare/Bulawayo within fourteen days from the date of publication of this notice.

Applicant (*full name*)

Residential address:

Form D.R. 9

NOTICE OF APPLICATION FOR CANCELLATION OF MORTGAGE BOND

NOTICE is hereby given that I intend to apply for the cancellation of Mortgage Bond No.

For \$..... passed on the day of 20....

By (*full name and residential address*)

In favour of (*full name and residential address*)

Hypothecating certain (*description of land*)

Whereof (*full name and, if not person named above, residential address*) is the present registered holder.

All persons claiming to have any right or title in or to the said bond, which is lots/has been destroyed,* are hereby required to lodge their objections or representations, in writing, at the Deeds Registry, Harare/Bulawayo,* within fourteen days from the date of publication of this notice.

Applicant (*full name*)

Residential address:

* Omit or delete what is not applicable.

Deeds Registries Regulations, 2018

SECOND SCHEDULE (*Section 60*)

FEES

US\$

- | | |
|---|--------|
| 1. For rental of a lodging box per year or part thereof | 120,00 |
| 2. Application for registration as a User | 100,00 |
| 3. User renewal per year | 100,00 |
| 4. For the registration of a document which is required to be attested
Or prepared by a Conveyancer or Notary Public | |
| (a) Where stamp duty is payable | 20,00 |
| (b) Where stamp duty is not payable..... | 50,00 |
| 5. For any act done by the Registrar which is not referred to elsewhere
in this Schedule | 20,00 |
| 6. For Certification of any document | 20,00 |
| 7. For every report prepared for copy by the Registrar | 20,00 |
| 8. For noting or uplifting of a caveat | 20,00 |
| 9. For a search conducted for any document..... | 1,00 |
| 10. For the copy of any document per page | 1,00 |
| 11. For each entry extracted for any register for publication in newspaper
or periodical..... | 1,00 |