

(1 May 2004 – to date)

[This is the **current** version and applies as from **1 May 2004**, i.e. the date of commencement of the Mining Titles Registration Amendment Act 24 of 2003 – **to date**]

MINING TITLES REGISTRATION ACT 16 OF 1967

*(Government Notice 269 in Government Gazette 1670 dated 1 March 1967. Commencement date is the same day as commencement of the Mining Rights Act 20 of 1967: **1 October 1967** [Proc. No. 239 in Gazette No. 1850 dated 22 September 1967])*

As amended by:

*Mining Titles Registration Amendment Act 60 of 1980 - Government Notice 992 in Government Gazette 7014 dated 23 May 1980. Commencement date: **23 May 1980**.*

*Mining Titles Registration Amendment Act 14 of 1991 - Government Notice 666 in Government Gazette 13118 dated 3 April 1991. Commencement date: **3 April 1991** (with the exception of sections 1, 2, 3 and 4)*

*Transfer of Powers and Duties of the State President Act 51 of 1991 - Government Notice 963 in Government Gazette 13205 dated 29 April 1991. Commencement date: **29 April 1991** [Proc. No. 41 in Gazette No. 13208 dated 29 April 1991]*

*Mining Titles Registration Amendment Act 14 of 1991 - Government Notice 666 in Government Gazette 13118 dated 3 April 1991. Commencement date of sections 1, 2, 3 and 4: **1 January 1992** (date of commencement of section 66 of the Minerals Act 50 of 1991) [Proc. No. 123 in Gazette No. 13682 dated 20 December 1991] and by the Minerals Act 50 of 1991 – Government Notice 1139 in Government Gazette 13253 dated 22 May 1991. Commencement date: **1 January 1992** [Proc. No. 123 in Gazette No. 13682 dated 20 December 1991]*

*General Law Fourth Amendment Act 132 of 1993 - Government Notice 1852 in Government Gazette 15160 dated 6 October 1993. Commencement date: **1 December 1993** [Proc. No. R.123 in Gazette No. 15308 dated 1 December 1993]*

*Regional and Land Affairs Second General Amendment Act 170 of 1993 - Government Notice 2431 in Government Gazette 15348 dated 17 December 1993. Commencement date: **17 December 1993**.*

*Mining Titles Registration Amendment Act 24 of 2003 – Government Notice 1731 in Government Gazette 25762 dated 26 November 2003. Commencement date: **1 May 2004** [Proc. No. R.25 in Gazette No. 26264 dated 23 April 2004]*

Prepared by:

Publisher's notes:

- *The Act has been amended by section 2 of Act 14 of 1991 by the substitution for the expression "registrar" of the expression "Director-General" wherever it occurs in the principal Act.*
- *The Act has been amended by section 66 of Act 50 of 1991 by the substitution for the expression "Registrar of Mining Titles" of the expression "Director General: Mineral and Energy Affairs", wherever it occurs in the said Act.*
- *The Act has been amended by section 52 of Act 24 of 2003 by the substitution for the expression "Supreme Court", wherever it appears, of the expression "High Court".*

ACT

To regulate the registration of mining titles, other rights connected with prospecting and mining, stand titles and certain other deeds and documents, and to provide for matters incidental thereto.

(English text signed by the State President.)

(Assented to 18th February, 1967.)

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CHAPTER I INTRODUCTION

1. Interpretation of terms

In this Act, unless the context otherwise indicates, any expression to which a meaning has been assigned, in the Mineral and Petroleum Resources Development Act, 2002, bears the meaning so assigned thereto, and –

(Paragraph amended by section 1(a) of Act 24 of 2003)

"bewaarplaats"

(Definition of "bewaarplaats" deleted by section 1(b) of Act 24 of 2003)

"certificate of bezitrecht"

(Definition of "certificate of bezitrecht" deleted by section 1(b) of Act 24 of 2003)

"certificate of reservation of a trading site"

(Definition of "certificate of reservation of a trading site" deleted by section 1(b) of Act 24 of 2003)

"conveyancer" means a person practising as such in the Republic;

"court" means any court of the provincial or local division of the High Court having jurisdiction, or any judge of such court;

"Department" means the Department of Minerals and Energy;

(Definition of "Department" inserted by section 1(c) of Act 24 of 2003)

"diagram" means a document containing geometrical, numerical and verbal representations of a piece of land, line, feature or area forming the basis for registration of a real right and which has been signed by a person recognised under any law then in force as a land surveyor, or which has been approved, confirmed or certified by the office of the Surveyor-General, and includes a diagram or copy prepared in the office of the Surveyor-General which has been so approved, confirmed or certified;

(Definition of "diagram" inserted by section 1(c) of Act 24 of 2003)

"Director-General" means the Director-General of the Department;

(Definition of "Director-General" inserted by section 1(c) of Act 24 of 2003)

"exploration right" means a right granted in terms of section 80 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "exploration right" inserted by section 1(c) of Act 24 of 2003)

"government" includes the national government, and any provincial and local government;

(Definition of "government" inserted by section 1(c) of Act 24 of 2003)

"holder"

(Definition of "holder" deleted by section 1(b) of Act 24 of 2003)

"Master" means the Master, Deputy Master or Assistant Master of the High Court having jurisdiction in respect of that matter;

(Definition of "Master" substituted by section 1(d) of Act 24 of 2003)

"Mineral and Petroleum Resources Development Act, 2002" means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

(Definition of "Mineral and Petroleum Resources Development Act, 2002" inserted by section 1(e) of Act 24 of 2003)

"mineral title" means any deed or document registered in the Mineral and Petroleum Titles Registration Office evidencing the right to prospect, mine, possess, trade or deal granted or acquired under the Mineral and Petroleum Resources Development Act, 2002, or any other law;

(Definition of "mineral title" inserted by section 1(e) of Act 24 of 2003)

"mining permit" means a permit granted in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "mining permit" inserted by section 1(e) of Act 24 of 2003)

"mining right" means a right granted in terms of section 23 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "mining right" inserted by section 1(e) of Act 24 of 2003)

"Minister" means the Minister of Minerals and Energy;

(Definition of "Minister" inserted by section 1(e) of Act 24 of 2003)

"mining title"

(Definition of "mining title" deleted by section 1(b) of Act 24 of 2003)

"mortgage bond" or **"bond"** means a mortgage bond attested by the Director-General specially hypothecating any right granted or which remains in force in terms of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "mortgage bond" or "bond" substituted by section 1(f) of Act 24 of 2003)

"nomination agreement"

(Definition of "nomination agreement" substituted by section 1 of Act 60 of 1980)

(Definition of "nomination agreement" deleted by section 1(b) of Act 24 of 2003)

"notarial deed" means a deed executed before and attested by a notary public, but does not include a document a signature to which is merely authenticated by a notary public or a copy of a document which has been certified as correct by a notary public;

"notary public" means, in relation to any document executed in the Republic, a person practising as such in the Republic; and, in relation to any document executed outside the Republic, a person practising as such in the place where the document is executed;

"permit to retain and treat residues"

(Definition of "permit to retain and treat residues" deleted by section 1(b) of Act 24 of 2003)

"petroleum title" means any deed or document registered in the Mineral and Petroleum Titles Registration Office evidencing the right granted to explore or produce petroleum granted in terms of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "petroleum title" inserted by section 1(g) of Act 24 of 2003)

"plan" means a prescribed sketch plan or locality plan defining the area for a right granted or issued for exploration, prospecting, reconnaissance, retention or a mining permit;

(Definition of "plan" inserted by section 1(g) of Act 24 of 2003)

"prescribed" means prescribed by or under this Act;

"production right" means a right granted in terms of section 84 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "production right" inserted by section 1(h) of Act 24 of 2003)

"prospecting contract"

(Definition of "prospecting contract" deleted by section 1(b) of Act 24 of 2003)

"prospecting right" means a right granted in terms of section 17 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of "prospecting right" inserted by section 1(h) of Act 24 of 2003)

“reconnaissance permission” means permission granted in terms of section 14 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of “reconnaissance permission” inserted by section 1(h) of Act 24 of 2003)

“reconnaissance permit” means a permit issued in terms of section 75 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of “reconnaissance permit” inserted by section 1(h) of Act 24 of 2003)

“registrar”

(Definition of “registrar” deleted by section 1 of Act 14 of 1991)

“registry duplicate” means the counterpart or copy of a certificate, deed or document consisting of more than one copy which is filed or intended to be filed of record in the Mining Titles Office;

“regulation” means a regulation in force under this Act;

“retention permit” means a permit issued in terms of section 32 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of “retention permit” inserted by section 1(i) of Act 24 of 2003)

“right” means any right held by or under any deed and registered or capable of being registered in terms of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of “right” substituted by section 1(j) of Act 24 of 2003)

“stand title”

(Definition of “stand title” deleted by section 1(b) of Act 24 of 2003)

“surface right permit”

(Definition of “surface right permit” deleted by section 1(b) of Act 24 of 2003)

“technical co-operation permit” means a permit issued in terms of section 77 of the Mineral and Petroleum Resources Development Act, 2002;

(Definition of “technical co-operation permit” inserted by section 1(k) of Act 24 of 2003)

“this Act” includes the regulations;

“tributing agreement”

(Definition of “tributing agreement” deleted by section 1(b) of Act 24 of 2003)

“water right”

(Definition of “water right” deleted by section 1(b) of Act 24 of 2003)

CHAPTER II ADMINISTRATION

2. Mineral and Petroleum Titles Registration Office

- (1) The Mineral and Petroleum Titles Registration Office is hereby established and is the office for the registration of all mineral and petroleum titles and all other related rights, deeds and documents for the registration of which provision is made in this Act or any other law.
- (2) All mineral titles and petroleum titles, deeds and documents lodged for registration in the Mining Titles Office after the commencement of the Mineral and Petroleum Resources Development Act, 2002, shall be dealt with in terms of this Act.
- (3) Any reference in this Act or any law to the Mining Titles Office must be regarded as a reference to the Mineral and Petroleum Titles Registration Office.
- (4) The registration of a right in terms of this Act in the Mineral and Petroleum Titles Registration Office shall constitute a limited real right binding on third parties.
- (5) Any registration or recording in the Mineral and Petroleum Titles Registration Office must comply with section 11 of the Mineral and Petroleum Resources Development Act, 2002.

(Section 2 substituted by section 2 of Act 24 of 2003)

3. Appointments

- (1) Subject to the laws governing the public service –
 - (a)
 - (b) the Director-General must designate one or more officers in the service of the Department to perform the functions delegated or assigned under this Act or any other law.

(Section 3(1)(a) deleted by section 3(a) of Act 24 of 2003)
(Section 3(1)(b) substituted by section 3 of Act 14 of 1991)
(Section 3(1)(b) substituted by section 3(b) of Act 24 of 2003)

- (2)

(Section 3(2) deleted by section 3(c) of Act 24 of 2003)

4. Seal of office

The Director-General shall have a seal of office which shall be affixed to all deeds or documents executed, attested or registered by him or her, and to all copies of deeds or documents issued by him or her to serve in lieu of the original deeds or documents.

(Section 4 substituted by section 4 of Act 24 of 2003)

5. Duties of Director-General

(1) The Director-General shall be in charge of the Mining Titles Office and shall, subject to the provisions of this Act –

(a) take charge of and preserve all records of the Mineral and Petroleum Titles Registration Office: Provided that the Director-General may, with due regard to any regulations made under section 10(1)(k), destroy or otherwise dispose of any record which has been cancelled in terms of this Act or any other law;

(Section 5(1)(a) substituted by section 5(a) of Act 24 of 2003)

(b) examine all deeds, diagrams, plans or other documents submitted to him or her for execution, registration, recording, noting or filing in his or her office;

(Section 5(1)(b) substituted by section 5(a) of Act 24 of 2003)

(c) register all rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002, and generally all documents evidencing title which by law are proper for registration in the Mineral and Petroleum Titles Registration Office;

(Section 5(1)(c) substituted by section 5(a) of Act 24 of 2003)

(d) register prospecting, exploration, production, mining and related rights and any cession, renewal, modification, amendment, abandonment or cancellation or lapsing of such registered rights;

(Section 5(1)(d) substituted by section 2 of Act 60 of 1980)

(Section 5(1)(d) substituted by section 5(a) of Act 24 of 2003)

(e) register leases and sub-leases of any right granted under any law relating to exploration, production, prospecting and mining and any transfer, cession, amendment, modification, abandonment, lapsing or cancellation of any such lease or sub-lease;

(Section 5(1)(e) substituted by section 5(a) of Act 24 of 2003)

(f)

(Section 5(1)(f) deleted by section 5(b) of Act 24 of 2003)

(g) attest or execute and register deeds of transfer and deeds of cession of rights, and execute and register certificates of title to rights;

- (h) attest and register mortgage bonds;
- (i) register cessions (including cessions made as security) of registered mortgage bonds, and register cancellations of such cessions if made as security;
- (j) register cancellations of registered mortgage bonds, releases of any part of the rights hypothecated thereby or of all such rights if the debt is further secured by a collateral bond, releases of any joint debtor or of any surety in respect of any such bond, the substitution of another person for a debtor in respect of any such bond, reductions of cover in respect of any such bond intended to secure future debts, and part payments of the capital amount due in respect of any such bond other than a bond intended to secure future debts;
- (k) register waivers of preference in respect of registered mortgage bonds with regard to the whole or any part of the rights hypothecated thereby, in favour of other bonds, whether registered or about to be registered;
- (l) register any servitude over any right capable of being encumbered by servitude by virtue of the provisions of any law relating to prospecting and mining, and endorse any amendment, modification, abandonment or extinction of any registered servitude;
(Section 5(1)(l) substituted by section 5(c) of Act 24 of 2003)
- (m) register all notarial contracts relating to any rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002;
(Section 5(1)(m) substituted by section 5(d) of Act 24 of 2003)
- (n) register any notarial variation, renewal or cancellation of such contracts;
(Section 5(1)(n) substituted by section 5(d) of Act 24 of 2003)
- (o) register against any registered mortgage bond any agreement entered into by the mortgagor and the holder of that bond, whereby any terms of that bond have been varied;
- (p) register powers of attorney whereby the agents named therein are authorized to act generally for the principals, or to carry out a series of transactions registerable in the Mineral and Petroleum Titles Registration Office, and register copies of any such powers registered in a deeds registry, which have been certified by the registrar thereof or have been issued for the purpose of being acted upon in the Mineral and Petroleum Titles Registration Office by a Registrar or Master of the High Court of South Africa;
(Section 5(1)(p) substituted by section 5(e) of Act 24 of 2003)
- (q) in connection with the registration of any deed or other document, or in compliance with the requirements of any law or order of court, make such endorsements on any registered deed or

other document as may be necessary to give effect to such registration or to the objects of such law or order of court;

- (r) record all notices, returns, statements or orders of court lodged with him or her in terms of any law;

(Section 5(1)(r) substituted by section 5(f) of Act 24 of 2003)

- (s) give notice to the Regional Manager of any registration or recordings effected in relation to any rights in the region concerned;

(Section 5(1)(s) substituted by section 5(g) of Act 24 of 2003)

- (t) record the conversion, renewal, modification, abandonment, lapsing or cancellation of any rights evidenced by any registered title deed registered, recorded, noted or filed in the Mineral and Petroleum Titles Registration Office;

(Section 5(1)(t) substituted by section 5(h) of Act 24 of 2003)

- (u) remove from his or her records, with the approval of the Master and after the lapsing of ten years from the date of entry in such records, any entry made therein, whether before or after the commencement of this Act, in pursuance of the transmission to him or her of a notice of liquidation or an order of liquidation or sequestration;

(Section 5(1)(u) substituted by section 5(i) of Act 24 of 2003)

- (v) record and file all mining permits, retention permits, technical co-operation permits, reconnaissance permits and permissions, financial provisions, approved environmental management plans, approved environmental management programmes and closure certificates issued in terms of the Mineral and Petroleum Resources Development Act, 2002;

(Section 5(1)(v) substituted by section 5(i) of Act 24 of 2003)

- (w) keep such registers and records and make such entries therein as may be necessary for the purpose of carrying out the provisions of this Act or any other law and of maintaining an efficient system of registration calculated to afford security of title and ready reference to any registered deed or document; and

- (x) generally discharge all such duties as by law may or are to be discharged by him or are necessary to give effect to the provisions of this Act or any other law.

- (2)

(Section 5(2) deleted by section 5(j) of Act 24 of 2003)

6. Powers of Director-General

- (1) The Director-General shall have power –

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- (a) to require the production of any deeds or documents or of proof of any fact necessary to be established in connection with any matter sought to be performed or effected in the Mineral and Petroleum Titles Registration Office;

(Section 6(1)(a) substituted by section 6(a) of Act 24 of 2003)

- (aA) to reject any deed, diagram, plan or other document examined by him or her;

(Section 6(1)(aA) inserted by section 6(b) of Act 24 of 2003)

- (b) to rectify any error in any deed, diagram, plan or other document recorded, noted, registered or filed in the Mineral and Petroleum Titles Registration Office; *[sic]* Provided that no such rectification shall be effected which would have the effect of alienating any right;

(Section 6(1)(b) substituted by section 6(c) of Act 24 of 2003)

- (c) to issue certified copies of deeds, diagrams, plans or other documents registered, recorded or filed in the Mineral and Petroleum Titles Registration Office under such conditions as he or she may prescribe;

(Section 6(1)(c) substituted by section 6(c) of Act 24 of 2003)

- (d) to require that a certified copy of any deed, diagram, plan or other document be provided to take the place of one that has become unserviceable or illegible;

(Section 6(1)(d) substituted by section 6(c) of Act 24 of 2003)

- (e) to deny access to records in instances that pose a threat to the integrity or security of such records;

(Section 6(1)(e) substituted by section 6(c) of Act 24 of 2003)

- (f) to make an endorsement on his or her own accord on any deed, diagram, plan or document where necessary in terms of this Act.

(Section 6(1)(f) added by section 6(d) of Act 24 of 2003)

- (2) Where any error to be rectified in terms of subsection (1)(b) is common to two or more deeds, diagrams, plans or other documents, including any register in the Mineral and Petroleum Titles Registration Office, the error shall be rectified in all those deeds, diagrams, plans or other documents.

(Section 6(2) substituted by section 6(e) of Act 24 of 2003)

- (3)

(Section 6(3) deleted by section 5 of Act 170 of 1993)

7. Registered deeds not to be cancelled except upon an order of court

- (1) A registered deed conveying title to any right may not be cancelled by the Director-General except as provided for by law.

(Section 7(1) substituted by section 7(a) of Act 24 of 2003)

- (2) The Director-General shall, upon the cancellation of a registered deed or document conveying title to any right as provided for in subsection (1), make all the necessary endorsements on the deed and related documents under which such right was held immediately prior to the cancellation, and make other entries in the appropriate registers.

(Section 7(2) substituted by section 7(a) of Act 24 of 2003)

- (3)

(Section 7(3) deleted by section 7(b) of Act 24 of 2003)

8. Inspection of records and supply of information

- (1) Subject to section 6(1)(e) the Director-General may on such conditions as may be prescribed and upon payment of the prescribed fees, and subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), permit any member of the public to—

- (a) inspect the public records in the Mineral and Petroleum Titles Registration Office;
- (b) make copies of or extracts from those records; or
- (c) obtain any other information concerning deeds or other documents registered or filed in that office.

(Section 8(1) substituted by section 8 of Act 24 of 2003)

- (2) No fee shall be payable under subsection (1) in respect of any search or inspection made by the sheriff in connection with the performance of his or her functions.

(Section 8(2) substituted by section 8 of Act 24 of 2003)

9.

(Section 9 amended by section 4 of Act 14 of 1991)

(Section 9 amended by section 9, First Schedule, of Act 51 of 1991)

(Section 9 repealed by section 9 of Act 24 of 2003)

10. Regulations

- (1) The Minister may from time to time make, alter or rescind regulations, not inconsistent with this Act, prescribing—

- (a) the fees of office to be charged in respect of any act provided for in this Act, including any report made to the court by the Director-General in connection with any application or action to which he or she is not a party;
- (b) the time, manner and form in which any deed, diagram, plan or other document required or permitted to be lodged, registered or filed in the Mineral and Petroleum Titles Registration Office shall be prepared, delivered, lodged, executed, registered or filed;
- (c) documents which, when produced in the Mineral and Petroleum Titles Registration Office, shall be attested or witnessed, and the manner in which any such document shall be so attested or witnessed;
- (d) the conditions upon which any person may conduct any search in the Mineral and Petroleum Titles Registration Office, and the precautions which shall be taken to ensure preservation of the records from damage by improper handling or otherwise;
- (e) the transmission by the Director-General to any Regional Manager, registrar of deeds, Surveyor-General or other officer, of returns of rights registered or recorded in the Mineral and Petroleum Titles Registration Office, and the manner, form and times for transmitting such returns;
- (f) the conditions under which copies of deeds, diagrams, plans and other documents registered, recorded or filed in the Mineral and Petroleum Titles Registration Office may be issued for judicial or information purposes;
- (g) the manner and form in which consent shall be signified to any cancellation, cession, part payment, reduction of cover, release or amendment of or other registerable transaction affecting any bond or other document registered in the Mineral and Petroleum Titles Registration Office;
- (h) the conditions under which a copy of a power of attorney and diagrams, plans and other documents may be accepted by the Director-General in lieu of the original;
- (i) the records which may be destroyed in terms of section 5(1)(a) or replaced in terms of section 6(1)(d); and
- (j) any matter which under this Act or any other law is required or permitted to be prescribed.

(Section 10(1) amended by section 6 of Act 170 of 1993)

(Section 10(1) substituted by section 10(a) of Act 24 of 2003)

- (1A) No regulation relating to State revenue or expenditure may be made by the Minister except with the concurrence of the Minister of Finance.

(Section 10(1A) inserted by section 10(b) of Act 24 of 2003)

(2)
(Section 10(2) deleted by section 6(b) of Act 170 of 1993)

(3)
(Section 10(3) deleted by section 10(c) of Act 24 of 2003)

CHAPTER III REGISTRATION: GENERAL PROVISIONS

11. Registers

The Director-General shall prepare, open and keep such registers as may be necessary to enable him or her to carry out the provisions of this Act.

(Section 11 substituted by section 11 of Act 24 of 2003)

12. Continuation of existing registers during the transitional period

The Director-General shall continue during the transitional period referred to in Schedule II to the Mineral and Petroleum Resources Development Act, 2002, to keep the corresponding register in use in the Mineral and Petroleum Titles Registration Office immediately prior to the commencement of this Act and to continue to make the necessary entries therein.

(Section 12 substituted by section 12 of Act 24 of 2003)

12A. Lodgement

- (1) The holder of the right granted in terms of the Mineral and Petroleum Resources Development Act, 2002, shall lodge his or her right for registration in the prescribed manner and on payment of the prescribed fees.
- (2) The holder shall lodge together with deeds or other documents for registration, a plan or a diagram depicting the area of the right.
- (3) Any registration of a variation, amendment, modification, deduction, abandonment or cancellation shall be accompanied by a plan or a diagram depicting the area affected.
- (4) All diagrams lodged in the Mineral and Petroleum Titles Registration Office shall be approved, confirmed or certified by the office of the Surveyor-General.

(Section 12A inserted by section 13 of Act 24 of 2003)

13. When registration takes place

- (1) Deeds executed or attested by the Director-General shall be deemed to be registered upon the affixing of his or her signature on the relevant document.
- (2) Deeds or documents lodged for registration shall be deemed to be registered when the Mineral and Petroleum Titles Registration Office endorsement in respect of the registration thereof is signed.
- (3) Subject to this Act, no deed or document which is one of a batch of interdependent deeds or documents intended for registration together shall be deemed to be registered until all the deeds or documents in the batch or the registration endorsement in respect thereof, as the case may be, have been signed by the Director-General.
- (4) If, by inadvertence, the signature of the Director-General has not been affixed to a deed executed or attested by him or her, or to the registration endorsement in respect of the registration of a deed, diagram, plan or other document lodged at the time at which the signature should have been affixed in the ordinary course, the Director-General may affix his or her signature on the deed or document when the omission is discovered, and the deed or document shall be deemed to have been registered at the time when the signature should have been affixed.
- (5) Subject to subsection (4), all endorsements or entries made on deeds, documents or registers in connection with the registration of any deed or document shall be deemed to have been effected simultaneously with the affixing of the signature of the Director-General thereto, although in fact they may have been made subsequently.

(Section 13 substituted by section 14 of Act 24 of 2003)

14. Deeds to follow sequence of their relative causes

- (1)
 - (a) Transfers or cessions of rights shall follow the sequence of the successive transactions in the vesting of such rights, unless this Act or any other law or an order of court provides otherwise.
 - (b) If any person has obtained the right to claim transfer or cession of a right from any other person and such first-mentioned right has been vested in any third person in terms of any judgment or order of court or in terms of a sale in execution held pursuant to any such judgment or order, transfer or cession may be passed directly to such third person by the person against whom such first-mentioned right was exercisable.
- (2) Transfer duty which would have been payable had the rights concerned been transferred or ceded to each person successively becoming entitled thereto must be paid in a transfer or cession in terms of subsection (1).

(Section 14 substituted by section 15 of Act 24 of 2003)

15. Preparation of deeds

- (1) Subject to this Act and any other law, no deed of transfer or mortgage bond shall be registered unless it has been prepared and executed by a conveyancer.
- (2) Subject to subsection (1), no contract other than a cession of a mortgage bond shall be registered unless it has been attested by a notary public.
- (3) Deeds of cession of rights, other than cessions of mortgage bonds, must be prepared and attested by a notary public before the Director-General registers them.

(Section 15 amended by section 7 of Act 170 of 1993)

(Section 15 substituted by section 16 of Act 24 of 2003)

15A. Proof of facts in connection with transactions in Mineral and Petroleum Titles Registration Office

- (1) A conveyancer who prepares a deed or other document for the purposes of registration, recording or filing in the Mineral and Petroleum Titles Registration Office, and who signs a prescribed certificate on such deed or document, accepts by virtue of such signing the responsibility for the purposes of this Act for the accuracy of the facts mentioned in such deed or document or which are relevant in connection with the registration or filing thereof.
- (2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer, who is prescribed by regulation, and who has in accordance with the regulations prepared a deed or other document prescribed by regulation for registration, recording or filing in the Mineral and Petroleum Titles Registration Office.
- (3) The Director-General shall accept, during the course of his or her examination of a deed or other document in accordance with the provisions of this Act, that the facts referred to in subsection (1) in connection with the registration, recording or filing of a deed or other document in respect of which a certificate referred to in subsection (1) or (2) has been signed, have for the purposes of such examination been conclusively proven.
- (4) Subsection (3) shall not derogate from the obligation of the Director-General to give effect to any order of court or any other notification recorded in the Mineral and Petroleum Titles Registration Office in terms of this Act or any other law, and which affects the registration, recording or filing of such deed or other document.

(Section 15A inserted by section 5 of Act 14 of 1991)

(Section 15A substituted by section 17 of Act 24 of 2003)

16. Registration of rights in name of holder

- (1) Every deed executed or attested by the Director-General, or attested by a notary public and required to be registered in the Mineral and Petroleum Titles Registration Office, and made by or on behalf of or in favour of any person, shall state the full name and identity number or registration number of the holder.
- (2) The Director-General shall register the right in the name of the holder of such right only.
- (3) Sections 9 and 11 of the Mineral and Petroleum Resources Development Act, 2002, applies to the transfer of the right referred to in subsection (2) to a joint estate or to an heir by virtue of testate or intestate succession.

(Section 16 substituted by section 6 of Act 14 of 1991)

(Section 16 amended by section 18 of Act 132 of 1993)

(Section 16 substituted by section 18 of Act 24 of 2003)

16A. Execution of deeds by prospective holders of rights

If any deed or document required to be executed by the holder of any right has been executed by a person who has become entitled to receive transfer or cession of such right, such deed or document shall, upon such person receiving transfer or cession of the right, for the purposes of this Act be deemed to have been executed by the holder of such right.

(Section 16A inserted by section 19 of Act 24 of 2003)

CHAPTER IV

REGISTRATION OF DEEDS OF TRANSFER AND OF CESSION

17. Preparation and execution of deeds of transfer, cessions and mortgage bonds

Deeds of transfer, mortgage bonds and cession of mortgage bonds shall be prepared in the form prescribed by law and shall be executed in the presence of the Director-General by a conveyancer authorized by power of attorney to act on behalf of the holder of the right described therein, and shall be attested by the Director-General.

(Section 17 substituted by section 20 of Act 24 of 2003)

18.

(Section 18 repealed by section 21 of Act 24 of 2003)

19. Transfer or cession of two or more rights by one deed

- (1) Two or more persons each holding different rights may not transfer or cede those rights to one or more persons by the same deed, unless such transfer or cession is authorized by a directive of the Minister, the provisions of a law or by an order of court.
- (2) Two or more rights may by one deed be transferred or ceded by one or more persons holding such rights in undivided shares to one or more persons acquiring such rights in undivided shares, provided each right is described in a separate paragraph or the rights are grouped in paragraphs to the satisfaction of the Director-General.
- (3) Two or more portions of a right may by one deed be transferred or ceded by one or more persons holding the whole of such right in undivided shares to one or more persons acquiring such portions in undivided shares, if each portion is described in a separate paragraph in which reference is made to the diagram or plan of such portion which shall be annexed to the deed: Provided that the Director-General may permit any number of portions of the same kind of right to be grouped in one or more paragraphs to his or her satisfaction.

(Section 19 substituted by section 22 of Act 24 of 2003)

20. Special provisions relating to transfer or cession of undivided shares

- (1) No transfer or cession of an undivided share in a right which is calculated to represent a defined portion of such right shall be capable of being registered.

(Section 20(1) substituted by section 23 of Act 24 of 2003)

- (2) If a right is held by two or more persons in undivided shares and one or more of such persons acquires the share or shares of the remaining holder or holders in a defined portion of that right, all the holders jointly, including the holder or holders acquiring the share or shares, may transfer or cede such portion to the person or persons acquiring it.

21.

(Section 21 repealed by section 24 of Act 24 of 2003)

22.

(Section 22 repealed by section 24 of Act 24 of 2003)

**CHAPTER V
SUBSTITUTED TITLE DEEDS**

23.

(Section 23 repealed by section 24 of Act 24 of 2003)

24. Certificate of registered title of one or more rights held under one title deed and of undivided shares

- (1) Any person who holds one or more undivided shares in a right under one title deed may, subject to the provisions of this Act, apply for a certificate of registered title in respect of one or more such undivided shares held by him or her therein.
- (2) Subject to subsection (1), an application for a certificate of registered title shall be made in the prescribed manner and accompanied by the title deed, if available, under which such right is held.
- (3) A transfer, cession or mortgage of a share of an undivided right shall not be registered in the Mineral and Petroleum Titles Registration Office unless a certificate of registered title is produced to the Director-General.
- (4) A certificate of registered title shall not be required where the whole right is still held and is transferred, ceded or mortgaged by the holders jointly.
- (5) If the title deed under which a share is held by more than one holder is lost or destroyed, any such holder may in accordance with any prescribed requirements, obtain a certificate of registered title of his or her share without applying for the title deed which has been lost or destroyed.
- (6) In issuing a certificate of registered title the Director-General shall endorse upon the title deed, register or mortgage bond, as the case may be, that a certificate of registered title has been issued in respect of the share in question: Provided that in the case of a bond it shall be endorsed on the certificate that it is mortgaged.
- (7) If the said share of the right is mortgaged, that mortgage bond shall be produced to the Director-General at the expense of the applicant.
- (8) A certificate when issued shall take the place of the title deed under which the right was previously held, and the issuing of the certificate shall not affect rights and obligations in respect of the right in question.

(Section 24 substituted by section 25 of Act 24 of 2003)

25.

(Section 25 repealed by section 24 of Act 24 of 2003)

26.

(Section 26 repealed by section 24 of Act 24 of 2003)

27.

Prepared by:

(Section 27 repealed by section 24 of Act 24 of 2003)

CHAPTER VI CHANGE OF TITLE BY ENDORSEMENT

28.

(Section 28 amended by section 7 of Act 14 of 1991)

(Section 28 repealed by section 24 of Act 24 of 2003)

29.

(Section 29 substituted by section 8 of Act 14 of 1991)

(Section 29 repealed by section 24 of Act 24 of 2003)

30.

(Section 30 substituted by section 19 of Act 132 of 1993)

(Section 30 repealed by section 24 of Act 24 of 2003)

CHAPTER VII BONDS: GENERAL PROVISIONS

31. Execution of bonds

(1) A mortgage bond shall be executed in the presence of the Director-General by a conveyancer duly authorized by power of attorney by the holder of the rights therein described, and shall be attested and registered by the Director-General.

(2) A bond may be registered to secure an existing or a future debt or both and may hypothecate rights of different kinds with the written consent of the Minister.

(Section 31(2) substituted by section 26(a) of Act 24 of 2003)

(3)

(Section 31(3) deleted by section 26(b) of Act 24 of 2003)

(4) If in a bond purporting to secure a future debt the amount of an existing debt is mentioned, such existing debt shall be deemed to be secured as part of the maximum amount intended to be secured by the bond.

(5) Save as authorized by any other law or by order of the court, debts or obligations to more than one creditor arising from different causes shall not be secured by one bond.

32. Requirements in case of bonds intended to secure future debts

- (1) No bond attested and registered after the commencement of this Act shall be of any force or effect for the purpose of giving preference or priority in respect of any debt incurred after the registration of the bond, unless –
 - (a) it is expressly stipulated in the bond that it is intended to secure future debts generally or some particular future debt described therein; and
 - (b) a sum is fixed in the bond as an amount beyond which future debts shall not be secured thereby.
- (2) A bond shall not be deemed to be a bond securing future debts within the meaning of subsection (1) by reason of the fact that it purports to secure payment by the mortgagor of the costs of preserving and realizing any security or of fire insurance premiums or of costs of notice or bank exchange.

33. Cession of bond to secure future advances

A cession of a bond passed to secure future advances may be registered, and the registration of such a cession shall not affect the provisions of the bond relating to future advances up to the amount stated in the bond or the amount as reduced.

34. Exclusion of general clause in mortgage bonds

The Director-General shall not attest and register any mortgage bond which contains a clause purporting to bind generally all the immovable or movable property or registered rights of the debtor or both such immovable or movable property and such rights.

(Section 34 substituted by section 27 of Act 24 of 2003)

35. Requirements in case of bonds passed by or in favour of two or more persons

- (1) No mortgage bond shall be passed by two or more mortgagors unless it purports to bind registered rights of each mortgagor: Provided that rights held subject to a condition that on the happening of a certain event such rights shall revert to a person named in such condition, may be mortgaged by the holder thereof and such person by means of a bond passed by them jointly and severally, or may be mortgaged by the holder of such rights with the written consent of such person, in which case the mortgage bond shall contain a reference to such consent.

(Section 35(1) substituted by section 28(a) of Act 24 of 2003)

- (2) If a bond is passed by two or more mortgagors, no release from the bond –
 - (a) of any mortgagor and his rights, or of a portion of the rights of any mortgagor shall be registered without the written consent of the other mortgagor or mortgagors;

(b) of all the rights of any mortgagor shall be registered unless such mortgagor is also released.

- (3) If a bond is passed by two or more mortgagors no waiver of preference by the mortgagee in favour of a further mortgage bond over the rights of one of the mortgagors may be registered without the written consent of the other mortgagor or mortgagors.
- (4) No bond shall be passed in favour of two or more persons in which it is stipulated that the share of one bond holder shall rank in priority to the share of another, nor shall any transaction be registered which would have the effect of giving preference to one share in a bond over another share.
- (4) The holder of a right subject to a personal servitude and the holder of that servitude may together mortgage the right to the full extent of their respective interests therein.

*(Section 35(4) added by section 28(b) of Act 24 of 2003. **Note** – There was an existing section 35(4) and another one got added)*

- (5) The holder of the right and the holder of the servitude may, either of them as principal debtor, in the same bond, mortgage the right or the servitude, and either of them may in the same bond mortgage the servitude or right as surety.

(Section 35(5) added by section 28(b) of Act 24 of 2003)

36. No bond to be passed in favour of an agent

No bond shall be passed in favour of any person as the agent of a principal.

CHAPTER VIII RIGHTS OF MORTGAGEES

37. Transfer or cession of mortgaged rights

- (1) No transfer, cancellation or cession of any mortgaged right shall be attested, executed or registered by the Director-General until the bond has been cancelled or the right has been released from the operation of the bond with the written consent of the holder of the bond but no cancellation or release shall be necessary if the transfer or cession is made in terms of this Act, any other law or by an order of court.

(Section 37(1) substituted by section 29(a) of Act 24 of 2003)

- (2) A consent to the release from the operation of a bond of all the rights mortgaged thereunder shall, except where the debt secured by such bond is further secured by a collateral bond, be deemed to be a consent to the cancellation of that bond.

38. Substitution of debtor in respect of a bond

- (1) If the holder of rights which are hypothecated under a registered mortgage bond, other than a mortgage bond to secure the obligations of a surety, transfers or cedes to another person all such hypothecated rights, the Director-General may, notwithstanding the provisions of section 37(1), register the transfer or cession and shall substitute the transferee for the transferor as debtor in respect of the bond, provided the written consent of the holder of the bond and of the transferee to the substitution in respect of the bond for the amount of the debt disclosed therein is produced to the Director-General in duplicate.

(Section 38(1) substituted by section 30(a) of Act 24 of 2003)

- (2) In registering the transfer or cession the Director-General shall –

- (a) make an entry in the appropriate register setting forth –

- (i) that the debt of the transferor secured by the bond is cancelled; and
- (ii) that the transferee has become the debtor in respect of the bond;

- (b) annex one duplicate of the written consent referred to in subsection (1) to the bond and file the other in his or her office and make reference on the registry duplicate of the bond to such filing;

(Section 38(2)(b) substituted by section 30(b) of Act 24 of 2003)

- (c) endorse upon the bond –

- (i) the name of the transferee;
- (ii) the date and number of the transfer or cession;
- (iii) a reference to the said written consent; and
- (iv) that the transferee has been substituted for the transferor as debtor in respect of the bond; and

- (d) endorse on the deed of transfer or cession the mortgage with the date and number of the bond and the amount due in terms thereof;

(Section 38(2)(d) substituted by section 30(c) of Act 24 of 2003)

- (3) As from the date of registration of the transfer or cession, the transferor shall be absolved from any obligation secured by the bond and the transferee shall be substituted for him or her as the debtor in respect of such bond and shall be bound by the terms of the bond in the same manner as if he or she had passed the bond and had renounced therein the benefit of all relevant exceptions.

(Section 38(3) substituted by section 30(d) of Act 24 of 2003)

- (4) The provisions of this section shall not apply if the mortgaged rights are to be transferred or ceded—

- (a) to a person who would not himself be competent to mortgage them; or
- (b) to two or more persons, unless they take transfer or cession of the rights in undivided shares and renounce in the written consent referred to in subsection (1) the exception *de duobus vel pluribus reis debendi*.

(Section 38(4) substituted by section 20 of Act 132 of 1993)

39. Return by Master in connection with insolvent estates and further provisions relative to insolvent estates

(1)

- (a) If it appears from the liquidation account of any estate which has been sequestrated or from the vouchers relating thereto that a payment has been made to any creditor on account of a bond registered in the Mineral and Petroleum Titles Registration Office, the Master shall notify the Director-General of such payment.
- (b) The Director-General shall, upon receipt of such notice, write off the amount in the appropriate register, on the registry duplicate of the bond and, if available, on the original bond.
- (c) The holder of the bond shall deliver the bond to the Master, who shall forward it to the Director-General in order that the amount paid may be written off thereon.

(Section 39(1) substituted by section 31(a) of Act 24 of 2003)

(2)

- (a) Except in cases where an insolvent has been rehabilitated in pursuance of a composition made by him or her with his or her creditors, the Master shall from time to time transmit to the Director-General a return specifying—
 - (i) the name and address of every person who has been rehabilitated after the sequestration of his or her estate; and
 - (ii) the rights and registered bonds appearing in the schedules lodged with the Master by or on behalf of such person or in the liquidation account of his or her estate,

and upon receipt of that return, the Director-General shall cancel in the appropriate registers all bonds registered therein against the rights of the said person prior to the sequestration of his or her estate and endorse the registry duplicates, and, if available, the bonds as cancelled.

- (b) The holders of such bonds shall, when requested to do so by the Master, deliver the bonds to him or her, and the Master shall forward them to the Director-General for cancellation.

(Section 39(2) substituted by section 31(b) of Act 24 of 2003)

- (3) If any of the rights mentioned in the return referred to in subsection (2) have not yet been transferred or ceded by the trustee, the Director-General shall note in the appropriate register that such rights have in terms of the law relating to insolvency vested in the trustee.
- (4) Rights which have vested in a trustee in accordance with the provisions of the law relating to insolvency and which have not in terms of that law been re-vested in the insolvent may, whether before or after rehabilitation of the insolvent, be transferred or ceded only by the trustee, and shall not after such rehabilitation be transferred, ceded, mortgaged or otherwise dealt with by the insolvent until they have been transferred or ceded to him or her by the trustee: Provided that, notwithstanding the provisions of this Act, if after the rehabilitation the trustee has been discharged, or if there is no trustee in existence, the Master shall, if satisfied that the rehabilitated insolvent is entitled to the rights, give him or her transfer or cession thereof in such manner as may be prescribed.

(Section 39(4) substituted by section 31(c) of Act 24 of 2003)

- (5) If by virtue of the provisions of the law relating to insolvency an insolvent has been re-vested with any rights, such rights shall not be transferred, ceded, mortgaged or otherwise dealt with by the insolvent until an endorsement that the rights have been restored to him or her has been made by the Director-General on the title deed evidencing the rights.

(Section 39(5) substituted by section 31(c) of Act 24 of 2003)

- (6) Nothing in this section contained shall be construed as modifying any provision of the law relating to insolvency.
- (7) The provisions of this section shall apply *mutatis mutandis* in respect of –
- (a) estates liquidated and distributed under section 34 of the Administration of Estates Act, 1965 (Act No. 66 of 1965);
 - (b) companies which are unable to pay their debts and are liquidated or wound up by or under the supervision of the court under the law relating to companies; and
 - (c) assets of an applicant under the Agricultural Credit Act, 1966 (Act No. 28 of 1966), which are administered by a liquidator or trustee who has received from the Master a certificate mentioned in section 29 of the said Act.

40. Endorsement on bond after sale in execution

Whenever any mortgaged rights have been sold in execution of a judgment of a competent court, or under express authority contained in a special law, to satisfy any debt due in respect of a registered bond or otherwise, and the proceeds of the sale have been paid to the legal holder of the bond, the sheriff concerned or the person acting under the authority of such special law shall notify the Director-

General of how much of the capital sum due in terms of the bond has been paid, and shall transmit the bond to the Director-General, who shall write off the amount paid in the appropriate registers and deeds.

(Section 40 substituted by section 32 of Act 24 of 2003)

CHAPTER IX SERVITUDES, CONTRACTS, TRIBUTING AGREEMENTS AND LEASES

41. Registration of servitudes and contracts

- (1) A servitude or contract shall be created by means of a deed executed before and attested by a notary public, and any amendment, modification, cession or cancellation of such a servitude or contract shall likewise be effected by notarial deed.

(Section 41(1) substituted by section 33(a) of Act 24 of 2003)

- (2) Each notarial deed shall contain a description of the rights encumbered by the servitude or contract together with a reference to the diagram or plan, defining the servitude, the rights or any part thereof to which the notarial deed relates and shall mention the title deed evidencing the encumbered rights.

(Section 41(2) substituted by section 33(b) of Act 24 of 2003)

- (3) For the purposes of the registration of the notarial deed there shall be produced a signed original of the deed to be filed in the Mineral and Petroleum Titles Registration Office, together with such further originals or copies certified by a notary public as may be prescribed, accompanied by a diagram or plan depicting the area of the right.

(Section 41(3)(a) substituted by section 33(c) of Act 24 of 2003)

- (b)

(Section 41(3)(b) deleted by section 33(d) of Act 24 of 2003)

- (4) If the servient rights or the rights to which the contract relates are mortgaged or subject to any other encumbrance with which the servitude or contract may conflict, the bond or other registered deed evidencing such other encumbrance, shall be produced together with the consent in writing of the legal holder thereof to the registration of the servitude or contract.

- (5)

(Section 41(5) deleted by section 33(e) of Act 24 of 2003)

42. Restriction of registration of personal servitudes

- (1) No servitude of usufruct, *usus* or *habitatio* purporting to extend beyond the lifetime of a person in whose favour it is created, and no transfer or cession of such a servitude to any person other than the holder of the right encumbered thereby, shall be registered.

- (2) Notwithstanding the provisions of section 41, a personal servitude may be reserved by condition in a deed of transfer or cession of a right, if the reservation is in favour of the transferor or cedent.

(Section 42(2) substituted by section 34 of Act 24 of 2003)

43. Registration of lapse of personal servitude

- (1) If for any reason any servitude or contract has lapsed, the Director-General shall note such lapsing on the title deed of the right and of the servitude and contract, on written application by the holder of the right encumbered thereby, accompanied by proof of such lapsing, the title deed evidencing the right, the deeds of servitude and contract accompanied by the appropriate diagram or plan.
- (2) Cancellation of the registration of a personal servitude in pursuance of an agreement between the holder of the right encumbered and the holder of the servitude shall be effected by notarial deed, subject to the provisions of this Act, and no such deed relating to any such servitude which is mortgaged shall be registered unless the mortgagee has given written consent to the cancellation of the bond or the release of the servitude from its operation.

(Section 43 substituted by section 35 of Act 24 of 2003)

44. Transfer, cession and mortgage of rights with personal servitude thereon

- (1) If the holder of a right subject to a personal servitude and the holder of that servitude have disposed of the right or any portion thereof together with the rights of servitude to any other person, they may together give transfer or cession thereof to that other person.
- (2) The deed of transfer or cession shall describe both the transferor or cedent as the holder of the right and holder of the servitude, respectively.

(Section 44(2) substituted by section 36(a) of Act 24 of 2003)

- (3)

(Section 44(3) deleted by section 36(b) of Act 24 of 2003)

- (4)

(Section 44(4) deleted by section 36(b) of Act 24 of 2003)

45.

(Section 45 repealed by section 37 of Act 24 of 2003)

46. Registration of leases and sub-leases

- (1) Any lease or sub-lease of any right and any cession thereof required to be registered in the Mineral and Petroleum Titles Registration Office shall be executed by the lessor and the lessee or by the lessee and the sub-lessee or by the cedent and the cessionary and shall be attested by a notary public.

(b)

(Section 46(1) substituted by section 38(a), and paragraph (b) deleted by section 38(b), of Act 24 of 2003)

- (2) If the right leased or sub-leased is mortgaged or subject to rights of any other person it shall not be necessary for purposes of registration of the lease or sub-lease or any cession thereof to produce the bond or the other deed whereby such rights are held or the consent of the legal holder thereof.

- (3) Every amendment of the terms and conditions of any lease or sub-lease must be in the form of a notarial deed and must be submitted for registration to the Director-General together with such further originals or copies thereof and such other documents and deeds as may be prescribed.

(Section 46(3) added by section 38(c) of Act 24 of 2003)

- (4) Whenever any lease or sub-lease is lodged for registration or has been amended, modified, abandoned or cancelled, either wholly or in part, such plans, diagrams, deeds and other documents as may be prescribed must be submitted to the Director-General, who must register or record such amendment, modification, abandonment or cancellation.

(Section 46(4) added by section 38(c) of Act 24 of 2003)

47. Termination of registered lease

- (1) When a registered lease or sub-lease has terminated, the Director-General shall on written application by the lessor or the lessee or the lessee or sub-lessee, accompanied by proof of the termination of the lease or sub-lease, and by the title deed of the right leased and the deed of lease or sub-lease, note that the lease or sub-lease has terminated.

(Section 47(1) substituted by section 39(a) of Act 24 of 2003)

- (2) If the full term, including periods of renewal, of a registered lease or sub-lease has expired, no further transactions affecting that lease or sub-lease shall be registered.

- (3) The Director-General may of his or her own accord endorse the lapsing of the right subject to the provisions of this Act or any other law.

(Section 47(3) added by section 39(b) of Act 24 of 2003)

CHAPTER X MISCELLANEOUS

48.

(Section 48 substituted by section 3 of Act 60 of 1980)

Prepared by:

(Section 48 repealed by section 40 of Act 24 of 2003)

49.

(Section 49 repealed by section 40 of Act 24 of 2003)

50.

(Section 50 repealed by section 40 of Act 24 of 2003)

51.

(Section 51 repealed by section 40 of Act 24 of 2003)

52.

(Section 52 repealed by section 40 of Act 24 of 2003)

53.

(Section 53 repealed by section 40 of Act 24 of 2003)

54.

(Section 54 repealed by section 40 of Act 24 of 2003)

55.

(Section 55 repealed by section 40 of Act 24 of 2003)

56.

(Section 56 repealed by section 40 of Act 24 of 2003)

57. Transfer and cession not to be passed as security

No transfer or cession of any right (except a mortgage bond) made as security for a debt or other obligation shall be attested by the Director-General or registered or recorded in the Mineral and Petroleum Titles Registration Office.

(Section 57 substituted by section 41 of Act 24 of 2003)

58. Taxes and transfer duty to be paid before transfer or cession

- (1) No deed of transfer or cession of any right shall be registered unless accompanied by a receipt or certificate of a competent officer that the taxes, duties and fees payable to the Government on the rights to be transferred, ceded or registered have been paid.

(Section 58(1) substituted by section 42(a) of Act 24 of 2003)

(2)

Prepared by:

(Section 58(2) deleted by section 42(b) of Act 24 of 2003)

59. Registration of change of name

- (1) If the name of any person whose name appears in any registered deed or other document has changed, the Director-General shall, upon written application and written proof of the change by that person, endorse on the said deed or document such change if he or she is satisfied that no change of person in law is implied and where the old name stated in the application appears in another deed or other document registered in the Mineral and Petroleum Titles Registration Office, that deed or other document shall be endorsed, and in either case corresponding entries shall be made in the registers.

(Section 59(1) substituted by section 43(a) of Act 24 of 2003)

- (2) Except in the case of a person whose name has been changed in accordance with the provisions of any law, the Director-General shall refuse to make any endorsement in terms of subsection (1) except upon an order of court.

(Section 59(2) substituted by section 43(b) of Act 24 of 2003)

60.

(Section 60 repealed by section 21 of Act 132 of 1993)

61. Attestation of powers of attorney and other documents in the Republic

(1)

- (a) Any power of attorney executed within the Republic which purports to give authority to pass, cede, amend or cancel a deed or document, or to perform any act in the Mineral and Petroleum Titles Registration Office, shall be attested either by two witnesses who are competent to give evidence in any court of law in the Republic or by a magistrate, justice of the peace, commissioner of oaths or notary public under his or her designation.

- (b) No person shall be competent to attest any power of attorney under which he or she is appointed as an agent or derives any benefit.

(Section 61(1) substituted by section 44(a) of Act 24 of 2003)

- (2) The provisions of subsection (1) shall apply to any other original document intended for registration or filing or production in the Mineral and Petroleum Titles Registration Office.

(Section 61(2) substituted by section 44(b) of Act 24 of 2003)

62.

(Section 62 repealed by section 45 of Act 24 of 2003)

63. Notice to Director-General of application to court

- (1) No application made to the court for authority or an order involving the performance of any act in the Mineral and Petroleum Titles Registration Office shall be heard, unless the applicant has at least fourteen days before the hearing given the Director-General written notice of his or her intention to make such application: Provided that, subject to the provisions of this Act, the Director-General may accept notice of shorter duration if the exigencies of his or her office permit.

(Section 63(1) substituted by section 46(a) of Act 24 of 2003)

- (2) The Director-General may submit to the court such report on any application as he or she may deem necessary.

(Section 63(2) substituted by section 46(b) of Act 24 of 2003)

64. Substituted copy of lost deed supersedes original which must be surrendered on recovery

- (1) If a copy of a registered deed or other document has been issued in the manner prescribed by regulation, in substitution for a deed or other document which has been lost or is believed to have been destroyed, the original deed or other document, if still in existence, shall thereupon become void.

- (2) If a deed or other document which has become void as contemplated in subsection (1) is subsequently found, such deed or other document shall be delivered or transmitted immediately to the Director-General.

(Section 64(2) substituted by section 47(a) of Act 24 of 2003)

- (3) When any deed or other document which has become void as contemplated in subsection (1) is delivered or transmitted to the Director-General, he or she shall impound it for filing in his or her office after having made an endorsement thereon that it has become void.

(Section 64(3) substituted by section 47(b) of Act 24 of 2003)

65. Exemption from liability for acts or omissions in the Mineral and Petroleum Titles Registration Office

No act or omission of the Director-General or of any officer employed in the Mineral and Petroleum Titles Registration Office shall render the Government or the Director-General or such officer liable for damages suffered by any person in consequence of such act or omission: Provided that if such act or omission is *mala fide* or if the Director-General or such officer has not exercised reasonable care and diligence in carrying out his or her duties in connection with the matter in relation to which such act or omission occurred, the Government shall be liable for the damages, and in that event any amount paid by the Government shall be recoverable from the Director-General or such officer.

(Section 65 substituted by section 48 of Act 24 of 2003)

66. Formal defects

No act or omission in connection with any registration in the Mineral and Petroleum Titles Registration Office shall be invalidated by any formal defect, whether such defect occurs in any deed passed or registered or in any document upon the authority of which any such deed has been passed or registered or which is required to be produced in connection with the passing or registration of such deed, unless a substantial injustice has by such act or omission been done, which in the opinion of the court cannot be remedied by any order of court.

(Section 66 substituted by section 49 of Act 24 of 2003)

67.

(Section 67 repealed by section 50 of Act 24 of 2003)

67A. Registration of OP26 rights and converted old order rights

All OP26 rights and old order rights converted in terms of the relevant provisions of Schedule II to the Mineral and Petroleum Resources Development Act, 2002, shall be lodged by the holder for simultaneous registration and de-registration at the Mineral and Petroleum Titles Registration Office, or the Deeds Office, as the case may be, within 90 days of the conversion thereof.

(Section 67A inserted by section 51 of Act 24 of 2003)

68. Short title and commencement

This Act shall be called the Mining Titles Registration Act, 1967, and shall come into operation on the date of commencement of the Mining Rights Act, 1967.