

Namibia

Deeds Registries Act, 1937

Deeds Registries Regulations, 1996

Government Notice 180 of 1996

Legislation as at 15 November 2017

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Republic of Namibia
Annotated Statutes

Deeds Registries Act, 1937

Deeds Registries Regulations, 1996

Government Notice 180 of 1996

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[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for Namibia.]

The Government Notice which issues these regulations repeals the regulations published in RSA GN 225/1964, RSA GN 207/1967, RSA GN R.437/1973, RSA GN R.2578/1978, RSA GN R.127/1979, AG 110/1982, AG 48/1983 and AG 48/1986.

as corrected by

**Government Notice 193 of 1996 (GG 1361) came into force on date of publication: 19 July 1996
Government Notice 312 of 1996 (GG 1457) came into force on date of publication: 4 December 1996**

and as amended by

**Government Notice 36 of 2004 (GG 3155) came into force on 17 March 2004 (GN 36/2004)
These amendments were made by the Deeds Registries
Regulation Board, with the approval of the Minister.**

**Government Notice 77 of 2007 (GG 3824) came into force on date of publication: 13 April 2007
These amendments were made by the Deeds Registries Regulation
Board, with the approval of the Minister of Lands and Resettlement.**

**Government Notice 137 of 2009 (GG 4278) came into force on 15 July 2009 (GN 137/2009)
These amendments were made by the Deeds Registries
Regulation Board, with the approval of the Minister.**

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Deeds Registries Act, 1937 (Act 47 of 1937) shall bear that meaning and, unless the context otherwise indicates-

“duly witnessed” means attested as provided in section 95 of the Act;

“**legal practitioner**” means a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act 15 of 1995);

[The word “practitioner” (in the term being defined) is misspelt in the *Government Gazette*, as reproduced above.]

“**the Act**” means the Deeds Registries Act, 1937 (Act 47 of 1937).

2. Deputy Registrar

The Deputy Registrar (if any) may exercise or perform any of the powers, duties or functions of the Registrar-

- (a) when required to do so by the Registrar, whether the Registrar is present or not: Provided that if any objection is taken to any decision of the Deputy Registrar when so acting, there shall be an appeal to the Registrar, who shall have power, if he or she sees fit, to vary or set aside such decision;

[paragraph (a) corrected by GN 312/1996]

- (b) during the absence of the Registrar for any period not exceeding six weeks on leave, duty or from illness or other unavoidable cause.

3. Registration divisions and numbering of units

The areas defined as magisterial districts in the Schedule to Government Notice No. 23 of 17 February 1994, shall, from the date of commencement of these regulations, continue to constitute registration divisions, each bearing a distinctive letter to be assigned by the Surveyor-General: Provided that if the boundary of any such registration division crosses unsurveyed State Land, the boundary of such registration division over such State Land shall upon subdivision of such State Land be the nearest cadastral boundary as determined by the Surveyor-General.

[regulation 3 amended by GN 36/2004]

4.

Whenever an adjustment in terms of the proviso to regulation 3 results in a farm unit falling in more than one registration division, the Surveyor-General shall take the necessary steps to have the boundaries of the registration division affected redefined in such a manner that such farm unit falls wholly within one registration division.

[regulation 4 amended by GN 36/2004]

5.

For the purpose of identifying erven, settlement holdings or lots (hereinafter called allotment units), the Registrar shall, in consultation with the Surveyor-General-

- (i) determine, if necessary, the limits of an area (hereinafter referred to as an allotment area) in which the registration of allotment units shall be confined to a single register or set of registers;
- (ii) assign, where deemed necessary, a distinctive number to each allotment unit situate within an allotment area:

Provided that the local authority council in question may be consulted before the limits of an allotment area are determined.

6.

- (1) The portions into which farms or allotment units may be divided shall be numbered consecutively, whether directly from the parent piece or indirectly through an intermediate portion: Provided that-
 - (i) portions already numbered or lettered, and for which title-deeds have been registered, need not be renumbered, but portions hereafter surveyed for the purpose of registration of title, shall follow in numerical progression thereafter, and the diagrams thereof shall disclose the parent portion;
 - (ii) upon subdivision of any piece of land in an allotment area, it shall be permissible to assign a new unit number to such subdivision.
- (2) Where two or more portions of a farm unit or of an allotment unit are consolidated into one, the resulting piece of land shall receive the next consecutive number as if it were a new portion.
- (3) Where two or more farm units or two or more allotment units are consolidated into one, the resulting piece of land shall receive a new number.
- (4) Where a portion of a farm unit and a whole such unit or a portion of an allotment unit and a whole such unit are consolidate into one, the resulting piece of land shall receive a new number.

[The word “consolidate” should be “consolidated”.]

- (5) Where two or more portions of different allotment units or of different farms are consolidated into one, the resulting piece of land shall receive the next suitable available number of the allotment area or registration division and where no such number is available, shall receive a new number in such allotment area or registration division.
- (6) The Registrar may, after consultation with the Surveyor-General, authorise a departure from the provisions of subregulations (2) to (5) should it be found necessary to do so.

7.

After the numbering of allotment units has been completed within an allotment area as prescribed in regulation 5, the Registrar shall take whatever steps may be necessary-

- (i) to compile a register or a set of registers for such allotment area;
- (ii) to identify the allotment units with land held under any title deeds;
- (iii) to endorse such title-deeds that the land comprises or corresponds with the respective unit or units and is now registered in the relevant register under its registration number.

8. Identity of persons

- (1) A person, except any person acting in a representative capacity, shall be identified in any deed, power of attorney, application, or other document submitted for registration, attestation or execution and registration, endorsement or preservation-
 - (a) in the case of a natural person, by means of his or her full names, marital status and identity number, assigned by the Minister of Home Affairs under section 4 of the identification Act, 1996 (Act No. 21 of 1996) and reflected in the identity document issued under section 5(1) of that Act: Provided that where an identity document has not been issued to the person concerned, such person shall be identified by means of his or her full names, marital status and date of birth or, if his or her date of birth is not known, by such other proof as the Registrar may require with regard to his or her identity; or

[paragraph (a) amended by GN 36/2004 and substituted by GN 137/2009]

- (b) in the case of any other person, by means of its name and, if any, its registered number.
- (2) The Registrar shall cause the particulars obtained in respect of a person by virtue of subregulation (1)(a) or (b) to be recorded in the relevant registers of the deeds registry.

[subregulation (2) substituted by GN 36/2004]

9.

The Registrar may in connection with any deed or document tendered for execution, registration, or record call for evidence to establish the identity or non-identity of any party thereto from any person whose name appears in any register kept in the Registry.

10. Preparation of deeds and documents and qualification of persons

- (1) Deeds and other documents submitted for registration, attestation, or execution and registration, endorsement, or preservation shall be on paper approved by the Registrar and shall be in clear writing, print or type of good quality: Provided that the Registrar may in his or her discretion allow that such a deed or other document may consist of one or more pages which has or have been reproduced by means of print or any other manner of reproduction, whether or not missing particulars have been made therein by means of clear writing, print or type.
- (2) The upper half of the first page of a deed shall not be used for writing, printing, typing or any other purposes, but shall be reserved for the purposes of Deeds Registry endorsements and, in the case of deeds or other documents referred to in subregulation (1), a margin of at least four centimetres shall be allowed on all pages of a deed for binding purposes.

[The word “subregulation” is misspelt in the *Government Gazette*, as reproduced above.]

- (3) No carbon copy of any deed or other document shall be accepted in a Deeds Registry for the purposes of preservation.
- (4) (a) Black ink of a durability and reproducible quality as the Registrar may allow, shall be used for the purposes of an alteration, an interlineation, a signature, or an initial on a deed or other document referred to in subregulation (1).

[paragraph (a) amended by GN 36/2004]

- (b) All alterations to, or interlineations in, such a deed or other document shall be initialled by the person who signed the deed or document and by the person who attested his or her signature (except the Registrar).
- (c) Where any witness other than the original witness attests the initial of the person who signed a document at any alteration or interlineation, such witness shall sign his or her name at such initial.
- (5) All alterations and interlineations shall, in the case of an attested deed by a notary, be initialled also by such notary.
- (6) Notwithstanding anything to the contrary in this regulation contained, the Registrar may in his or her discretion accept for preservation any copy of a document filed in any Government office, if such a copy has been certified to be a true copy by or on behalf of the head of such office or by a conveyancer or by a notary or, in the case of a diagram, by the Surveyor-General.

11.

The Registrar may decline to allow any signature to a document for the purpose it was intended if such signature has been written across a stamp, or with ink other than black in colour and of good quality, or encroaches on the margin of such document: Provided that the Registrar may in his or her discretion relax the provisions of this regulation.

12.

Any space in a deed of 3cm or more which have not been used shall be ruled through and, where a deed comprises more than one page, each page shall be numbered consecutively.

13.

If, in the opinion of the Registrar, the writing, typing, or printing in any deed, power, or other document lodged for attestation, execution or registration or for any other purpose, is, owing to the faintness thereof, not calculated to secure durability, he or she may decline to attest, execute, register, or accept it, as the case maybe.

14.

- (1) An addition of an "alias" to the description of any person by or to whom a deed lodged for execution or attestation in the Deeds Registry is to be passed shall not be permitted, and, if any such addition has been made in any other deed or power, or other document lodged for registration, the correct name only shall be recognized for purposes of such registration.
- (2) Deeds, powers, and other documents, if executed outside Namibia and expressed in a foreign language, may, at the discretion of the Registrar, be accepted for registration or record if a translation duly certified by person admitted to practise as a sworn translator is lodged therewith: Provided that if no sworn translator of any foreign language is readily available, the Registrar may in his or her discretion accept a translation made under oath by such other person as he or she may approve.

15.

Every deed and document executed in or lodged for registration or record in the Deeds Registry shall disclose the place and date of execution thereof.

16.

Every deed of title to land for which no form is prescribed, and every deed of title to land for which a form is prescribed wherein provision is made for the inclusion of an extending clause in conformity with these regulations, shall immediately after the description of the property contain an extending clause substantially in the form set out in Form DD or EE in Annexure III to these regulations, whichever may be applicable.

[Regulation 16 is corrected by GN 312/1996, which inserts missing words at the end of that regulation. It is then substituted by GN 36/2004.]

17.

- (1)
 - (a) Where a deed conferring title to land includes more than one property, each piece of land shall be described in a separate paragraph, which shall be numbered, and each paragraph shall conform to the provisions of regulation 16.
 - (b) A separate registration clause shall, if required by the Registrar, be inserted at the end of the deed in respect of each piece of land, which clause shall bear a number corresponding to the number of the paragraph in which the land is described.
- (2) Where two or more pieces of land are shown as separate figures on a single diagram each piece shall be described in the relevant deed in a separate paragraph, and may thereafter be transferred independently only upon the production of a further diagram thereof.
- (3) Notwithstanding any practice to the contrary in the Deeds Registry, it shall not be necessary, where separate diagrams of two or more pieces of land are annexed to one and the same deed of transfer

and transfer is sought of any of such pieces, to procure from the Surveyor-General a copy of the diagram thereof for the purpose of annexure to the new transfer.

**[Regulation 17 was omitted in the original Government Notice.
It was inserted by the correction notice in GN 312/1996.]**

18.

- (1) The following particulars shall be furnished in a deed where land is described:
 - (a) The name of the registration division and region in which such land is situated, and, in the case of land situated in a township, the name of such township and the name of the municipality, town, village or settlement in which such land is situated; and
 - (b) the registered number, if any of such land.
- (2) In describing land no reference shall be made in a deed conferring title to land, or in a mortgage bond, to any building or other property, movable or immovable, which may be on or attached to the land.
- (3) When the description of the situation of land in an existing deed is defective or insufficient and it is desired in connection with a further transfer of such land to amend the same, the registrar may, subject to the production of a certificate by the Surveyor-General if the registrar regards it necessary, permit such amendment to be made.
- (4) The description of the boundaries of land given in a diagram need not be repeated in the relevant deed, but such deed shall contain a reference to such diagram.

[The portion of subregulation (1) prior to paragraph (b) was omitted in the original Government Notice. It was inserted by the correction notice in GN 312/1996. Regulation 18 was then substituted in its entirety by GN 36/2004.]

19.

In the description of land conveyed or hypothecated in a deed or bond the extent thereof shall be expressed in words and figures.

20.

In the description of land the term "share" shall be employed when an undivided share in a piece of land is being dealt with, and such share shall be expressed in one fraction in its lowest terms, the method of arriving at the result also being given in complicated cases.

21.

- (1)
 - (a) Where land to be transferred or hypothecated is held by several deeds the Registrar may require the conveyancer to furnish a statement containing particulars regarding the different fractional shares and describing in complicated cases the method by which the result was arrived at, and also, where there are two or more owners, to indicate in such statement the shares held by each.
 - (b) If the land is one of several pieces described in a transfer deed or mortgage bond the conveyancer shall furnish a reference to the paragraph therein which relates to such land.
- (2) Where possible, in transferring a share in land from two or more titles under which shares are held, one or more titles shall be exhausted.

[Regulation 21 is corrected by GN 312/1996 to add subregulation (2).]

22.

No portion of any piece of land shall, save as provided by the Act, be transferred except upon a diagram thereof.

23.

When a piece of land has been separated into two or more parts by the deduction of one or more intervening portions thereof, such parts forming the remaining extent shall not be regarded as being separate pieces of land for the purposes of section 40 and 42 of the Act.

[Regulation 23 is corrected by GN 312/1996.]

24.

Where it is sought to transfer or cede immovable property to, or register mortgage bonds or notarial bonds in favour of persons who have not attained majority, such transfers, cessions, or bonds shall, subject to the provisions of section 25 of the Act, be made in the name of the minors and not in the name of their guardians, tutors, or curators, as the case may be.

25.

- (1) All deeds or documents executed by or on behalf or in favour of persons carrying on business as a firm or a partnership, or to which a firm may be a party, as also any power lodged or required in connection with such deeds or documents, must contain the full names of the partners constituting the firm.
- (2) When property is registered in the name of persons carrying on business as a firm or a partnership it may, so long as the firm consists of the same partners, be transferred, hypothecated, or otherwise dealt with, as the case may be, on a power bearing the signature of the firm and of the partner who affixed the firm's signature.
- (3)
 - (a) If any partner in a firm wishes to transfer his or her share in any property of the firm to the remaining partners or to the remaining partners and some other person or persons, or to some other person or persons alone, to the end that such remaining partners either alone or together with such other person or persons, as the case may be, shall form a new partnership to hold such property, such transfer shall not be passed unless the whole of the property, and not merely the share of the disposing partner, be transferred or ceded to the new partnership, and the deed, power, or other document necessary for the purpose shall be signed by each of the partners of the original firm or by his or her duly authorized agent, and, in like manner, if a new partner is admitted into a firm and if such new firm wishes to transfer or cede property taken over from the old firm, such transfer or cession shall not be passed unless the said new firm has itself received transfer or cession of that property from the old firm.
 - (b) In the event of any property of a firm not being dealt with on dissolution in the manner described in paragraph (a), the deed, power, or other document necessary for the transfer or cession to the partners thereof or such other persons to whom the same may have been disposed of, shall be signed by each of the individual partners or by his or her duly authorized agent.
 - (c) If, during the continuance of a partnership any member thereof desires to register any transaction other than an endorsement pursuant to section 45 of the Act affecting his or her share in any property registered in the name of the partnership, he or she shall not be permitted to do so until transfer has been passed to such member of the share to which he or she is entitled.

- (d) Where a partner is deceased and the deed of partnership provides that the partnership shall not be terminated by reason of such partner's death, but that his or her share in such partnership shall be administered by an administrator, it shall be competent for the Registrar to endorse the title-deed of any immovable property held by such partnership to the effect that the share of such deceased partner in such partnership shall be administered in terms of section 40 of the Administration of Estates Act, 1965 (Act 66 of 1965).
- (4) Where land has been sold by or to a firm or partnership, the transfer duty receipt issued in respect of the sale shall disclose the names of the members thereof.

26.

- (1) The following procedure shall be observed in the preparation of deeds conferring title to land in regard to the conditions to which such land is or may be subject:
 - (a) Where it appears from the deed produced to the Registrar that the land is subject to special conditions limiting the rights of the owner, such conditions shall be repeated in every subsequent deed conferring title to such land, and where necessary be referred to as mentioned in the deed whereby they were created;
 - (b) where it appears from the deed produced to the Registrar that the land is subject to conditions other than those referred to in paragraph (a), such conditions shall, if the Registrar so requires, be repeated in a subsequent deed conferring title to such land, otherwise it shall be specially referred to as mentioned in such deed, and its character be described in general terms;
 - (c) where the deed produced to the Registrar is not a grant from the State and contains a general reference to conditions in a prior title-deed by which the land was held, every subsequent deed conferring title to such land shall be made subject also to such conditions as are referred to in the deed produced;
 - (d) where the deed produced to the Registrar is a grant or transfer from the State comprising land acquired by purchase or otherwise, and such grant contains a general or specific reference to the conditions contained in the deed by which the land was conveyed to the State, the provisions of paragraphs (a), (b) and (c) shall apply;
 - (e) on any subsequent deed relating to land in connection with which the provisions of paragraphs (a), (b) and (c), or any of them, have been applied, such deed shall follow substantially the preceding deed in its reference to the conditions and omit in this connection any mention of the preceding deed until such time as the land is made subject to further conditions, in which case such further conditions shall also be mentioned or specially referred to in the manner prescribed in the said paragraphs;
 - (f) in every deed conferring title to land the rights of the State shall be expressly reserved;
 - (g) the serial number and year of every deed to which reference is made in connection with conditions shall be quoted, provided that the Registrar may in his or her discretion relax the provisions of this subparagraph; and
 - (h) should the provisions of this regulation not be applicable, the decision of the Registrar with regard to the procedure to be followed shall be observed.
- (2) **[subregulation (2) deleted by GN 36/2004]**
- (3) Where it appears from a deed that an owner of land has acquired any right of servitude over any other land, such right should also be specially referred to or mentioned and described in every deed conferring title to the first-mentioned land.
- (4) If a deed lodged for execution or registration reserves or grants an interest described as a life interest, except where such interest is created by a will, the nature of such life interest shall be disclosed in such deed and in the relative power, if any.

- (5) (a) Conditions shall be in the official language and shall, subject to paragraph (b), be embodied in a title deed immediately after the extending clause contained in such title deed.
- (b) Only in circumstances determined by the registrar as exceptional, may conditions be embodied in an annexure to a title deed.

[subregulation (5) substituted by GN 36/2004]

- (6) No condition shall be included in any deed or bond which purports to impose upon the Registrar any duty or obligation not sanctioned by law.

27. ***

[regulation 27 deleted by GN 36/2004]

28.

Where in the circumstances contemplated in the proviso to subsection (1) of section 58 of the Act it is necessary to pass transfer to a rehabilitated insolvent, such transfer may be passed upon a power of attorney signed by the Master of the High Court.

29.

- (1) The consent for the registration of the following transactions, namely-
 - (a) cancellation of a registered mortgage bond or notarial bond;
 - (b) release of any part of property hypothecated by a registered mortgage bond or notarial bond or, in the case where the debt is further secured by any such collateral bond, of all the property, or of any joint debtor or of any surety in respect of any such bond;
 - (c) part payment of a capital amount due in respect of any registered mortgage bond or notarial bond other than a registered mortgage bond or notarial bond intended to secure future debts;
 - (d) reduction of cover in respect of a registered mortgage bond or notarial bond intended to secure future debts;
 - (e) waiver of preference in respect of a registered mortgage bond or notarial bond with regard to the whole or any part of the property hypothecated thereby in favour of any other such bond, whether registered or about to be registered;
 - (f) cession of a registered mortgage bond or notarial bond;
 - (g) cancellation of a cession of a registered mortgage bond or notarial bond made as security;
 - (h) substitution of any other person for a debtor in respect of a registered mortgage bond,

shall be granted in every case in accordance with the applicable prescribed form W or CC, as the case may be, on separate forms by the holder of the bond or the holder of the bond and the mortgagee or the person to be substituted for the mortgagee, as the case may be, and shall be duly signed and attested.

[The word "Form" in the reference to "Form W" should be capitalised.]

- (2) Any agreement referred to in section 3(1)(s) of the Act, shall be entered into in accordance with form FF and shall be duly signed and attested.

[The word "Form" in the reference to "Form F.F" should be capitalised, and a full stop inserted between the two letter "F"s.]

- (3) The application and consent required under the proviso to paragraph (a) of subsection (5) of section 40 of the Act of an owner and a holder of a bond, shall be made and granted in accordance with form GG and shall be duly signed and attested.
- (4) The consent referred to in subregulation (1) and the application and consent referred to in subregulation (3) and the agreement referred to in subregulation (2) shall, in addition to particulars required in the Form concerned, contain also the full names and marital status of the holder of the bond and of any party who thereby grants his or her consent.
- (5) The application and consent referred to in subregulation (1) and (3) and the agreement referred to in subregulation (2), shall be preserved by the Registrar.

[The word “subregulation” is misspelt in the *Government Gazette*, as reproduced above.]

- (6) The consent referred to in paragraphs (e) to (h) of subregulation (1), the agreement referred to in subregulation (2) and the application and consent referred to in subregulation (3), shall be prepared in duplicate and the duplicate copy thereof shall be annexed to the copy of the bond of the holder of the bond: Provided that if no duplicate copy is available, a copy certified by a notary or conveyancer shall be annexed to the copy of the bond of the holder of the bond.
- (7) Any application, consent, or agreement referred to in this regulation may not relate to more than one bond.

30.

- (1) Where it is sought to mortgage land held under special conditions limiting the rights of the owner, the Registrar may require those conditions to be set out in the bond or a suitable reference made thereto.
- (2)
 - (a) Every mortgage bond shall contain a full and clear description of the property to be hypothecated, including the extent thereof, and when two or more properties are to be hypothecated, each property shall be described in a separate paragraph.
 - (b) The number (comprising the serial and year number), if any, of the deed by which the property is held, shall also be quoted in each paragraph: Provided that where more than one property is held by one and the same deed, such number of the deed may be quoted after the description of the last of such properties.
- (3) Where a bond is lodged for the purpose of noting any part payment or reduction of cover thereon such part payment or reduction of cover need not be noted on the title-deed of the property affected.
- (4) The deed of cession of a bond shall set forth the causa of such cession.
- (5) Where the cession of a bond has, prior to the coming into force of these regulations, been endorsed upon such bond the Registrar may accept for filing a duplicate original of the cession or an acknowledgement of such cession, in terms approved by him or her signed by the cedent and duly witnessed, or a notarially certified copy of such cession.
- (6) Any waiver of preference in respect of a registered real right in land (including rights mentioned in section 66 of the Act which may be contingent) to or in favour of the legal holder under a registered or registrable mortgage bond shall, if such bond has been registered, be contained in a notarial deed, and if such bond has not been registered be contained in a notarial deed or in such bond as the owner of such right may elect.
- (7) Every waiver registered in terms of this regulation shall be duly noted on the owner's title to such right, and in the case of a registered bond, on such bond.

31.

- (a) The consent of the legal holder of any bond referred to in section 27 of the Act shall be furnished in duplicate and, should a duplicate not have been furnished, the Registrar may accept a copy certified by a conveyancer or notary.
- (b) The original of the consent referred to in paragraph (a) shall be retained by the Registrar and the duplicate or copy thereof shall be annexed to the bond.

32.

- (1) Every deed of grant, deed of transfer, certificate conferring title to immovable property, deed of cession referred to in section 32 of the Act or mortgage bond shall be prepared by a conveyancer, who shall make and sign a certificate in the undermentioned form in the upper right hand corner of the first page of the document concerned:

Prepared by me

CONVEYANCER

(State surname and initials in block letters.)

- (2) A conveyancer who prepares a deed of grant, deed of transfer, certificate, deed of cession, or mortgage bond referred to in subregulation (1) shall initial personally all alterations or interlineations in such deed of grant, deed of transfer, certificate, deed of cession, or mortgage bond and also every page thereof not requiring his or her signature if such deed of grant, deed of transfer, certificate, deed of cession, or mortgage bond is written on separate sheets, and no such deed of grant, deed of transfer, certificate, deed of cession, or mortgage bond shall be accepted for execution or registration if it does not bear such certificate and is not so initialled, provided, however, that in the case of a deed of transfer or mortgage bond where an alteration or interlineation does not, in the opinion of the Registrar, require initialling by the conveyancer who prepared such deed of transfer or mortgage bond, such alteration or interlineation shall be initialled by the conveyancer executing such deed of transfer or mortgage bond.

33.

- (1) Subject to the provisions of subregulation (3), any power of attorney, application, or consent required for the performance of an act of registration in the deeds registry and any agreement of partition referred to in section 26 of the Act executed and tendered for registration or filing of record in the deeds registry, shall be prepared by a practising legal practitioner, notary public or conveyancer, who shall make and sign a certificate in the undermentioned form in the upper right hand corner of the first page of the applicable document:

Prepared by me

LEGAL PRACTITIONER/NOTARY PUBLIC/CONVEYANCER*

(State surname and initials in block letters.)

*

(Delete whichever is not applicable)

- (2) Any material alteration or interlineation in any power of attorney, application, consent, or agreement of partition referred to in subregulation (1) shall be initialled by the legal practitioner, notary public or conveyancer who prepared such document.
- (3) When a certificate referred to in subregulation (1) is signed by a legal practitioner, the fact that the signatory is a practising legal practitioner shall be confirmed by a practising conveyancer, who shall countersign the certificate by making and signing the following certificate thereon:

Countersigned by me

CONVEYANCER

(State surname and initials in block letters)

- (4) Notwithstanding the provisions of this regulation, a legal practitioner, notary public or conveyancer in the employment of a ministry or office of the Public Service may prepare, in the course of his or her employment in such ministry or office, any document referred to in this regulation that is required for the performance of any function in such ministry or office.

[regulation 33 substituted by GN 36/2004]

34.

The person signing the preparation certificates prescribed by regulations 32 and 33(1) accepts, in terms of section 15A(1) and (2) of the Act, responsibility for the correctness of the undermentioned facts stated in the deeds or documents concerned or which are relevant in connection with the registration or filing thereof, namely:

- (a) that all copies of the deeds or documents intended for execution or registration are identical at the date of lodgement;
- (b) that, in the case of a deed of grant, deed of transfer, or certificate of title of land, all the applicable conditions of title contained in or endorsed upon the owner's copy of the title-deed, together with any conditions imposed in terms of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963), have been correctly brought forward or created in that deed of grant, deed of transfer, or certificate of title to land;
- (c) that, in case of a document referred to in regulation 33(1) being signed by a person in his or her capacity as an executor or executrix, administrator, trustee, tutor, curator, liquidator, or judicial manager from perusal of the document evidencing such appointment exhibited to him or her, such person has in fact been appointed in that capacity;
- (d) that, to the best of his or her knowledge and belief and after due enquiry has been made -
- (i) the names, date of birth and marital status of any natural person being a party to a deed of grant, deed or document, and in the case of any other person, its name and registered number (if any), or the name of a trust are correctly reflected in that deed or document;
- (ii) in the case of a document referred to in regulation 33(1) or a deed of grant -
- (aa) the transaction as disclosed therein is authorised by and in accordance with the constitution, regulations or founding statement, as the case may be, of any church, association, society, or other body of persons, or any institution other than a company incorporated under the Companies Act, 1973 (Act 61 of 1973), or close corporation incorporated under the Close Corporations Act, 1988 (Act 26 of 1988), or the deed of a trust being a party to such document or deed of grant;

- (bb) a company incorporated under the Companies Act, 1973, or a close corporation incorporated under the Close Corporations Act, 1988, being a party to such document or deed of grant, has been incorporated in Namibia;
- (cc) a trustee being a party to such document or deed of grant is acting therein in accordance with the powers set out in the deed of trust concerned and that any security required had been furnished to the Master of the High Court;
- (iii) in the case of a document referred to in regulation 33(1) the necessary authority has been obtained for the signing of such document in a representative capacity on behalf of a company, close corporation, church, association, society, or other body of persons, or an institution;
- (e) that, in the case where a conveyancer is signing the preparation certificate on a deed of transfer, certificate of title conferring title to immovable property or a mortgage bond, he or she shall accept responsibility that the particulars in the deed, mentioned in paragraph (d)(i), have been brought forward correctly from the special power of attorney or application relating thereto.

35. Lodgment and execution of deeds

- (1) All deeds, mortgage bonds, documents and powers of attorney intended for registration, attestation, or execution and registration or preservation, as the case may be, shall be lodged for examination by a notary or a conveyancer practising at the seat of the Deeds Registry or by a person employed by a notary or conveyancer or by any person employed in the Public Service, in covers with the receiving clerk (who shall note thereon the date of lodgment), on working days between the hours that the Registrar shall determine: Provided that a notary who is not also a conveyancer or a person employed by such a notary may only lodge notarial deeds.

[Regulation 35 is corrected by GN 312/1996 to insert the omitted subregulation number "(1)".]

- (2)
 - (a) Powers of attorney shall be lodged singly, and all deeds, mortgage bonds and other documents referred to in subregulation (1) shall be lodged in duplicate, except that in the case where more than one person is a party to a notarial deed affecting immovable property, an additional duplicate original, grosse or certified copy shall be lodged in respect of each title-deed involved and of each additional person being a party to the notarial deed and who is not the owner of the immovable property concerned, unless the Registrar requires in his or her discretion less duplicate originals, grosse or certified copies.
 - (b) A notarial deed referred to in paragraph (a) and one copy thereof shall, subject to the provisions of section 3 of the Act, be signed by the Registrar and any other additional copies shall be endorsed that it has been issued for information only.
- (3) As soon as possible after the expiration of five working days after a deed has been lodged in accordance with subregulation (1), such a deed intended for attestation or execution and registration, and in respect of which no objection exists, shall be attested or executed before or by the Registrar: Provided that the Registrar may allow any deed to be attested or executed before the expiration of such number of working days, and may reject deeds not attested or executed within such number of working days.

[subregulation (3) amended by GN 36/2004]

- (4) In the event of two or more mortgage bonds being passed on the same day by one and the same mortgagor over the same property, the Registrar shall, if each bond does not disclose the order in which it is to rank, note on each the exact time at which he or she affixed his or her signature thereto.
- (5) Deeds lodged for attestation or execution and registration and in respect of which an objection exists, shall, if circumstances permit, be rejected not later than five working days after lodgement.

[subregulation (5) amended by GN 36/2004]

- (6) Although a deed is to be fully examined in the first instance, if a defect of such a nature as to justify rejection is discovered in connection with any deed or other document lodged for execution or registration, the Registrar shall have the power to direct that the further examination of the deed shall be postponed until the defect has been cured and to reject such deed in the ordinary course.

36.

No cession of the balance due under any bond shall be registered until the amount paid in reduction thereof has been noted, nor may any bond, other than a bond to secure future debts, of which part of the capital amount has been repaid be substituted under the provisions of sections 45 and 57 of the Act, until the part payment has been noted.

37.

- (1) Where application is made under the provisions of section 45 of the Act there shall be produced, in addition to the title-deeds, lease under any law relating to land settlement and bonds, the following documents:

- (a) Where transfer duty is payable, a receipt for such duty;

[The word “where” should not be capitalised.]

- (b) where the property or bond was bequeathed to a survivor, a copy of the will, codicil or other testamentary document accepted and certified by the Master;

[paragraph (b) substituted by GN 36/2004]

- (c) where the property was purchased from the estate by such survivor, being also the executor in the estate, an Order of Court confirming the sale;

- (d) where action is being taken under sections 38 and 94 of the Administration of Estates Act, 1965 (Act 66 of 1965), a certificate or consent from the Master;

- (e) in circumstances where no consent or certificate of the Master is required, a certificate from the conveyancer that the liquidation account in the estate has lain for inspection, that no objection thereto has been received and that the endorsement to be made is in terms of the account;

[paragraph (e) amended by GN 36/2004]

- (f) where such survivor is an heir in terms of the Intestate Succession Ordinance, 1946 (Ordinance 12 of 1946)-

- (i) proof that the deceased spouse left no valid will; and
(ii) proof of the balance of the estate for distribution by means of a Certificate of the Master or a copy of the liquidation account certified by the Master; and

- (g) where application is made for the endorsement of a lease under any law relating to land settlement, the consent of the Minister responsible for the administration of matters pertaining to land settlements shall be produced to such endorsement.

- (2) When a title-deed is endorsed under section 45 of the Act, the Registrar shall make an appropriate note in the register affected.

38.

- (1) Where land is to be transferred in pursuance of the provisions of a will, codicil, or other testamentary instrument, a copy of the will, codicil, or other testamentary instrument, as the case may be, certified and accepted by the Master or, in the case of an estate to which the provisions of the Administration of Estates (Rehoboth Gebiet) Proclamation, 1941 (Proclamation 36 of 1941)

applies, the magistrate concerned, shall be lodged with the deed, and the Registrar may in his or her discretion require any executor who seeks to transfer land belonging to the estate under his or her administration, to lodge a certified copy of the will, codicil, or other testamentary instrument, and of the liquidation account in the estate, but if a copy has already been lodged in the Deeds Registry, it shall be sufficient if a note is made in either case on the deed indicating the number and the date of the deed with which such copy is filed.

- (2) Where land is sought to be transferred by an executor in pursuance of-
- (a) paragraph (b) of section 21 of the Act, there shall be lodged with such transfer a certificate by the Master or the executor or a conveyancer that the land has been sold to pay the debts of the joint estate; or
 - (b) paragraph (c) of section 21 of the Act, there shall be lodged with such transfer a certificate by the Master or a conveyancer that the surviving spouse has adiated under the will whereby the joint estate is massed or a statement to that effect signed by the surviving spouse and duly witnessed;
 - (c) any of the exceptions contemplated in paragraphs (a) to (e) of section 21 of the Act, the deed of transfer shall indicate that the transfer is on behalf of the joint estate and that the joint estate is divested.

39.

- (1) Where it is sought to deal with immovable property, the title-deed of such property, or a certified copy thereof, issued to serve as an original, shall, except as provided for in the Act and in subregulations (2) and (3) of this regulation be produced and be mentioned in the deed dealing with such property, but it shall not be necessary, unless the Registrar so requires, to produce any deed by which the property was previously held, whether such deed be the diagram deed or any intermediate deed, nor shall the Registrar be required to endorse thereon any record of subsequent dealings with the property.
- (2) Where immovable property is to be transferred or ceded in execution of the judgment of any competent court by the officer appointed by law, or by such court, it shall not be necessary to produce the title-deed of such property or a certified copy issued in lieu thereof if such officer certifies in writing that he or she has been unable to obtain possession of such title-deed or copy: Provided that where the duplicate original of such title-deed filed of record in the Deeds Registry has been lost or destroyed it shall be necessary for such officer to obtain a certificate of registered title under the provisions of section 31 of the Act, for which purpose such officer shall be regarded as the owner of the land.
- (2A) Notwithstanding the provisions of subregulation (2), where all the property held under a title deed is to be transferred or ceded to the State and endorsements as contemplated in section 16 of the Act are to be made on such title deed, it shall be necessary to produce the title deed of such property or a certified copy in lieu thereof.

[subregulation (2A) inserted by GN 36/2004]

- (3) [subregulation (3) deleted by GN 36/2004]

40.

- (1) Where, in the partition of land or, an undivided share in such land or is registered in the name of a deceased person, or of his or her estate, or of his or her surviving spouse, the Registrar shall, if such share has been bequeathed, require not only the consent of the Master in terms of section 94 of the Administration of Estates Act, 1965 (Act 66 of 1965), on behalf of heirs or legatees who may be minors, but also the consents of the major heirs or legatees, if there are such, unless it can

be proved to his or her satisfaction by documentary evidence that the partition was agreed upon during the lifetime of the testator.

[Subregulation (1) is amended by GN 36/2004 to delete the word “rights to mining areas”. This deletion results in two superfluous instances of the word “or” in the opening phrase. The opening phrase of regulation 40 should probably read as follows:

(1) **“Where, in the partition of land, an undivided share in such land is registered in the name of a deceased person, or of his or her estate, or of his or her surviving spouse, the Registrar shall...”]**

- (2) Where a partition of land is effected in terms of section 26(7) of the Act, the agreement to partition or the powers of attorney shall set out all the properties to be partitioned and the properties awarded to each partitioner, and the deeds of partition transfer shall be executed simultaneously.

41.

- (1) Where immovable property has been acquired by any person not married in community of property and transfer thereof has not been effected during the lifetime of such person, the transfer deed shall be made out in favour of the estate of such person.
- (2) A certificate of title of land which is registered in the name of a person since deceased shall be issued in the name of the registered owner (deceased), and not in favour of his or her estate.

42.

Where in the circumstances provided for in subsection (1)(b)(ii) of section 14 of the Act, a transfer direct to a purchaser is lodged, such deed of transfer shall not be executed unless proof of the value of the immovable property being dealt with is furnished by means of a written valuation by a sworn appraiser.

43.

Where a transfer is lodged in the circumstances provided for in section 30(1) of the Act, such transfer shall not be executed unless proof that the land awarded on partition to the owner of any share subject to a *fideicommissum* is an equivalent of that share, is furnished by means of the written report of a sworn appraiser or of an impartial person proved by the magistrate of the district in which the property is situate.

44.

Where a note of expropriation is to be made in terms of section 31(6)(a) of the Act, such note shall not be made unless a certificate has been furnished to the Registrar by the expropriating authority describing the land, giving the name, registered number and registration division and setting out the full names of the registered owner and the number and date of the title.

45.

Any person making application to the Registrar for a consolidated title shall, if the diagram of the land in respect of which such application is made does not contain a description of the several pieces of land comprised therein corresponding so far as may be material for purposes of identification with that contained in the existing title-deeds, cause to be lodged with his or her application a certificate containing such description from the Surveyor-General.

46.

- (1) Whenever it appears from any statement on the diagram of a portion of a piece of land about to be transferred that the transferor has granted a servitude in favour of such portion over the remaining extent thereof or over some other land adjoining the land to be transferred and registered in the

transferor's name, or has imposed a servitude over such portion in favour of such remaining extent or other land, such servitude shall be embodied in the power given for the purposes of the transfer of such portion and also in the relative deed of transfer, unless such servitude can only be created on the subsequent transfer of such portion.

- (2) If a diagram lodged with an application for any certificate of title contains a statement indicating the creation of a new servitude, the Registrar shall decline to issue such title, unless there has been lodged for registration with the application a notarial deed embodying the terms of such servitude, unless such servitude is only to be created on eventual transfer of the land affected.
- (3) The land affected by a servitude shall be sufficiently described, and the serial number and year of the deed by which it is held shall be quoted, provided that the Registrar may in his or her discretion relax the provisions of this subregulation.

47.

- (1) Where cancellation of registration is sought under the provisions of section 68(2) of the Act, the Registrar may accept a unilateral notarial deed of cancellation by the holder of such servitude, provided that such deed does not impose any obligation upon the owner of the land.
- (2) The Registrar may accept for registration a unilateral notarial deed of-
 - (a) cancellation of a *fideicommissum* by the *fideicommissary* heirs; and
 - (b) cession of a personal servitude referred to in section 66 of the Act,by the holder of such right or servitude, provided that such deed does not impose any obligations upon the owner of the land in a case as contemplated in paragraph (a) or upon a cessionary in a case as contemplated in paragraph (b).

48.

In the circumstances mentioned in section 76 of the Act, the title-deeds of the land affected shall be endorsed as to the nature of the praedial servitude created in a deed of transfer, but should the description of the servitude be of such a lengthy or complicated nature so as to render an effective reference thereto or a transcription thereof impracticable by endorsement, an extract thereof certified by the conveyancer executing the deed of transfer shall be lodged for annexure by the Registrar to the originals and office duplicates of the deeds affected and a suitable reference to such extract shall be made by the Registrar upon such deeds.

49.

- (1) If, in connection with the execution or registration or filing of record of any deed, power, or other document, reference is necessary to any deed or document already filed or registered in the Deeds Registry, the number and year of that deed, or of the deed with which such document is filed, or the number under which it is registered, must be furnished when the deed, power, or document is lodged for execution or registration or record, provided that where any deed, power, or document to which reference is necessary is of a lengthy character, it shall be the duty of the conveyancer or other person concerned to indicate the particular clause thereof which relates to the question to be determined.
- (2)
 - (a) All deeds, bonds, diagrams, or documents necessary in connection with the examination, execution, or registration of any deed, bond, power, or other document lodged in the Deeds Registry, including all receipts or certificates required by law to be produced, shall accompany such deed.
 - (b) The Registrar shall not execute or attest a deed or bond unless the title-deeds and bonds thereon for cancellation, release, or substitution accompany the deed or bond lodged for execution, except if such production is specifically waived under the Act or these regulations.

- (3) (a) Where a deed lodged by any person for execution or registration or any other purpose is intended to be executed or registered, or otherwise dealt with, in conjunction with a deed lodged by another person, a note to that effect shall be made by the conveyancer or other person responsible for the lodgement thereof on the several deeds concerned.
- (b) If any conveyancer fails to comply with paragraph (a), the deed in respect of which such omission has been made, may, if in order, be executed, registered, or otherwise dealt with independently of such other deed.

50. Powers and certified copies thereof

- (1) Any person seeking to pass, cede, or cancel a deed or to perform any other act in the Deeds Registry on behalf of any other person shall, except as hereinafter provided, lodge for filing with the Registrar the original power under which he or she claims to act.
- (2) A power contemplated in subregulation (1) shall specify the date, as well as the place of its execution, the latter being described sufficiently to enable the Registrar to judge whether or not it is situated within Namibia.
- (3) A special power of attorney to transfer, hypothecate, or otherwise deal with land or other immovable property shall contain -
 - (a) a clear and sufficient description of such land or property;
 - (b) the registered number, if any, of such land or property;
 - (c) the number (consisting of the serial and year number) of the deed whereunder such land or property is held; and
 - (d) with regard to a power of attorney to transfer land, the date of disposal of such land.
- (4) A general power of attorney shall not be available for the purpose of dealing with immovable property, unless it contains express authority empowering the agent to do so.
- (5) If at any time written notice is received from the mandant by the Registrar cancelling a power which has been registered, the Registrar shall forthwith cause a suitable note of such cancellation to be made in the appropriate register and also on the power, and shall sign or initial the note on the latter.
- (6) If an original power is filed of record in the office of the Registrar or Master of the High Court of Namibia, the Registrar of Deeds may recognize, as and for the purposes of an original, any copy certified under the hand and seal of the Registrar or Master of the High Court: Provided that when it is sought by virtue of any copy of a power referred to in this subregulation to perform any act before the Registrar of Deeds, there shall be produced to him or her a letter or certificate, signed by the officer in charge of the office from which such copy was issued, dated not more than 21 days prior to the date of production thereof, evidencing that no notification of revocation of the original power had been received by him or her up to the date of such letter or certificate.
- (7) When a letter or certificate, as the case may be, has been produced to and lodged with the Registrar of Deeds by virtue of the proviso to subregulation (6), he or she shall also have authority to effect all necessary acts in connection with the registration of any consent, cession, or other matter given, made, or completed at any time prior to the date of the production and lodgment of such letter or certificate.
- (8) A notice of the revocation of any power of attorney filed in the Deeds Registry will only be recognised if it is signed by the mandant or by some person expressly authorized by him or her in writing to revoke the same.
- (9) If a power of attorney is printed or written on a form of a mortgage bond or deed of transfer, or authorizes the passing of a bond or transfer on a form annexed thereto, such form shall not be accepted for execution and registration as a bond for transfer.

51. Copies of deeds and other documents

[heading inserted by GN 36/2004]

Copies of deeds conferring title to land or to any interest therein and copies of mortgage or notarial bonds, required for information only, shall be issued on the application of any person and the words “Issued for information only” shall be written or stamped on the face of every copy so issued.

52.

Where copies of deeds conferring title to land or to any interest therein and copies of mortgage or notarial bonds are required for judicial purposes, they shall be issued on a written application signed by a legal practitioner or any authorized staff member in the Public Service, and the words “Issued for judicial purposes only” shall be written or stamped on the face of every copy so issued.

53.

- (1) If any deed conferring title to land or to any interest therein or any real right, or any registered lease or sublease or cession thereof or any mortgage or notarial bond, is lost or destroyed and a copy is required for any purpose other than one of those mentioned in regulation 51 or 52, the registered holder thereof or his or her duly authorized agent may subject to this regulation make written application for such copy, which application shall be accompanied by an affidavit describing the deed and stating that it has not been pledged and it is not being detained by any one as security for a debt or otherwise, but that it has been actually lost or destroyed and cannot be found though diligent search has been made therefor, and further setting forth, where possible, the circumstances under which it was lost or destroyed.

[subregulation (1) amended by GN 36/2004]

- (2) If the circumstances of the loss or destruction are not stated, or if they are stated and the Registrar is of opinion that further evidence is necessary, either from the applicant himself or herself or some other person in whose custody the deed, lease or sublease or cession thereof or bond may have been before the loss or destruction thereof, to establish such loss or destruction, he or she shall be entitled to call for such evidence: Provided that if it appears from the records of the Deeds Registry, in the case of a deed, that the land or any interest or real right therein has been mortgaged in favour of any person or the owner has conferred a real right therein on any person or, in the case of a lease or sublease or cession thereof, that the lessee has mortgaged his or her interest therein in favour of any person or, in the case of a registered mortgage bond or notarial bond, that it has been ceded to any person, who may by virtue of such mortgage, conferment, or cession be in possession of the deed, lease or sublease or cession thereof or registered mortgage bond or notarial bond, the Registrar shall require that the mortgagee, the person on whom the real right has been conferred, the person in whose favour the lessee has mortgaged his or her interest or the person to whom the registered mortgage bond or notarial bond has been ceded, as the case may be, shall state in writing that the deed, lease, sublease or cession thereof or registered mortgage bond or notarial bond is not in his or her possession and that he or she consents that such copy be issued.
- (3) If such a registered holder is deceased or has been declared mentally ill by a competent court, or is insolvent, or has assigned his or her estate for the benefit of his or her creditors under the provisions of the law relating to insolvency, or any prior statute governing the assignment of estates, or is a company under official liquidation, then the application and affidavit may be made by the legal representative of the estate or by the liquidator of the company: Provided that if such representative or liquidator is not able to produce evidence definitely establishing the loss or destruction of the deed the Registrar may, on being satisfied that all necessary steps have been taken to recover the same, issue a copy thereof upon compliance with the requirements of this regulation.

- (3A) (a) If the rights held under a deed referred to in subregulation (1) are attached then the application and affidavit referred to in that subregulation may be made by the sheriff concerned.

[The word “affidavit” is misspelt in the *Government Gazette*, as reproduced above.]

- (b) If such sheriff is unable to definitely establish the cause of the loss or destruction of the deed in such affidavit the registrar may nevertheless, upon being satisfied that all the necessary steps have been taken to recover the deed and upon compliance with the requirements of this regulation, issue a copy of the deed.

[subregulation (3A) inserted by GN 36/2004]

- (4) The Registrar shall, if he or she is satisfied that no good reason to the contrary exists, issue the certified copy asked for, upon payment of the applicable fee prescribed in Annexure I to these regulations, : Provided that no such copy shall be issued until the Registrar has searched the registers and has made suitable endorsements regarding transactions, if any, registered therein in connection with the deed or bond concerned.

[Subregulation (4) is amended by GN 36/2004. The comma before the colon is included in this amendment, but is superfluous.]

- (4A) Notwithstanding the provisions of subregulation (4), where the registrar is satisfied upon evidence presented in terms of this regulation that the deed or bond in question has inadvertently been lost, destroyed or damaged, he or she may, free of charge, issue the certified copy referred to in that subregulation.

[subregulation (4A) inserted by GN 36/2004]

- (5) If a copy issued to serve as an original is itself lost or destroyed, the Registrar may, subject to the fulfilment *mutatis mutandis* of the conditions prescribed in this regulation in regard to the loss of originals, issue a further copy to serve in lieu of the original.
- (6) (a) If any deed referred to in subregulation (1) or any registered lease or sublease or cession thereof or any mortgage or notarial bond has for any reason become unserviceable, it shall be competent for the Registrar to issue a certified copy thereof, to serve in place of the original on written application being made to him or her by the owner or the legal holder or the duly authorized agent of such owner or holder, provided that the original deed shall be lodged with such application.
- (b) If any such deed, lease, or bond is lodged for any purpose without an application for a certified copy, the Registrar may require a certified copy to be taken out, if in his or her opinion such deed, lease or bond is not serviceable for the purpose intended.
- (7) In the event of any deed, lease or sublease or cession thereof or bond, in lieu of which a copy has been issued under the provisions of this regulation being subsequently found and produced to the Registrar, he or she shall endorse thereon that it has become void except in the case of a deed of transfer affected by the provisions of section 34(2) of the Act, when the provisions of subregulation (10) shall apply.
- (8) If the holder of a registered mortgage bond or notarial bond (which has been lost or destroyed) or his or her duly authorized agent, desires to procure cancellation of the bond and has made written application, duly witnessed, to the Registrar to cancel such bond, and has complied *mutatis mutandis*, with the provisions of subregulations (1), (2) and (3) the Registrar shall, if he or she is satisfied that no good reason to the contrary exists, cancel the registration duplicate of such bond, and such cancellation shall be deemed to be a cancellation of such bond notwithstanding that such bond has not been submitted for cancellation.
- (9) In the circumstances mentioned in section 34(2) of the Act the provisions of this regulation shall *mutatis mutandis* be complied with.

- (10) Where any person has obtained a certificate of registered title under the provisions of section 34(2) of the Act, the Registrar shall endorse upon the registry duplicate of the lost or destroyed deed the fact that a certificate has been issued in respect of the share of the applicant under that section, but should the lost deed be found and produced to the Registrar a similar endorsement shall be made thereon.

54.

If a certified copy of any document not specified in regulation 53(1) is required by any person, such person may obtain the same upon application and within such period as circumstances permit.

55. Miscellaneous

No business shall be conducted with the Deeds Registry by means of correspondence in relation to the preparation, lodgment, or registration of any deed or other document.

56.

- (1) In the event of any portion of any piece of land held under any title being leased, it shall be necessary for the registration of such lease that a diagram of such portion be annexed to each copy of the deed of lease lodged for registration, unless such portion is already registered as a separate entity: Provided that if only a portion of such right is subsequently ceded or leased, a separate diagram representing the land affected by such parent lease or cession, if not already available, other than the diagram of the affected freehold property, shall accompany the diagram of the sublease or cession required in terms of subregulation (2).
- (2) A diagram shall also be annexed to each copy of the relevant deed in respect of leases and subleases of land affecting only a portion of the land held under the original leases or cessions, and to notarial releases of any part of the property leased and also to deeds creating or defining servitudes and real rights whether created or defined by the parties thereto or by order of the court: Provided that a servitude feature of uniform width, or a servitude feature at a specified distance from, and parallel to, a surveyed line shown on a registered diagram extending along the entire length of such surveyed line, excluding any servitude relating to the widening of a road, may be registered by description without a supporting diagram: Provided further that nothing in this subregulation shall exclude the registration of a servitude in general terms: Provided further that any other servitude may be registered by the Registrar if the Surveyor-General is satisfied that such servitude can be plotted on the diagram of the land affected: Provided further that the diagram need not be annexed to every copy of a deed creating or defining any servitude if such servitude is plotted on any general plan preserved in the Deeds Registry.
- (3) For the purposes of this regulation the Registrar shall not accept for registration any deed to which there is attached any sketch or plan other than a diagram.

57.

The holder of a real right mentioned in section 64(1) of the Act may transfer the whole thereof (if transferable), without first obtaining a certificate referred to in that section.

58.

Where any act of registration affects a diagram it shall be the duty of the Registrar to notify the Surveyor-General.

59. Information

- (1) Where in the Deeds Registry access into strong rooms by any member of the public for the purpose of conducting any search is permitted, the Registrar shall have power to regulate during which

hours such access may be allowed, and he or she may refuse admission to any member of the public without giving reasons for such refusal.

- (2) Where access to the strong rooms in the deeds registry is permitted, legal practitioners, notaries public, conveyancers, surveyors, sheriffs, or messengers of magistrates' courts may inspect the records and registers in the deeds registry and, subject to the provisions of section 7 of the Act, obtain, upon payment of the applicable fee (if any) prescribed in Annexure I to these regulations, copies of such records and extracts from such registers, but other members of the public may only do so under the supervision of a staff member of the deeds registry designated for that purpose by the registrar.

[subregulation (2) substituted by GN 36/2004]

60. Binding of records

Any record cancelled in terms of section 3(1) of the Act may be destroyed by the Registrar-

- (a) in the case of any record other than a consent for the cancellation of any deed or other document submitted for registration, attestation, or execution and registration or preservation, after expiration of a period of 5 years from the date when it was cancelled;
- (b) in the case of a consent for the cancellation of such a deed or other document, after expiration of a period of 30 years from the date when such cancellation was registered.

61. Forms and Tariffs

The certificates of title to be issued by the Registrar under the Act, and the further deeds or documents prescribed under the Act or these regulations, shall be prepared substantially in the form of the relevant forms prescribed in Annexure III to these regulations.

62.

The certificate of registered title to be issued by a Registrar in terms of section 9(6), 13(6) or 37(10) of the Sectional Titles Act, 1971 (Act 66 of 1971), shall be prepared substantially in the relevant form prescribed in Annexure III to these regulations.

63. ***

[regulation 63 deleted by GN 36/2004]

64.

The fees of office to be charged in respect of any act, matter, or thing required or permitted to be done in or in relation to the Deeds Registry shall be those specified in the Schedule of Fees of Office set out in Annexure I to these regulations.

65.

- (1) The fees and charges as mentioned in subsection (1)(c) of section 10 of the Act shall be those specified in the Tariff of Conveyancing and Notarial Fees set out in Annexure II to these regulations: Provided that the Registrar may tax a bill for wasted costs, and the fees allowed in connection with such wasted costs shall be in the discretion of the Registrar.
- (2) Any bill of costs presented for taxation shall refer to the relevant Part and paragraph thereof of the Tariff referred to in subregulation (1) under which the payment of any fee or charge is claimed.

[subregulation (2) corrected by GN 312/1996]

66. Commencement

These regulations shall come into operation on 1 August 1996.

ANNEXURE I (Regulation 64)**SCHEDULE OF FEES OF OFFICE**

[Annexure I is substituted by GN 36/2004 and by GN 77/2007, which erroneously refers to "ANNEXURE 1" instead of "ANNEXURE I" (with a Roman numeral).]

		Fee
1.	For the issue of a certificate compiled by the registrar on request from information contained in the registers or records preserved in the deeds registry, per certificate	N\$ 25
2.	For the preparation and submission of a report to the court under section 97 of the Act, per report	N\$ 250
3.	For a certified copy of-	
	(a) a deed, bond or document registered or preserved in the deeds registry and issued in terms of regulation 51 or 52, per deed, bond or document	N\$ 30
	(b) a deed registered or preserved in the deeds registry and issued in terms of regulation 53, per deed	N\$ 225
	(c) a document registered or preserved in the deeds registry and issued in terms of regulation 54, per page	N\$ 4
4.	(a) For the search of an index to any register, for an enquiry relating to a person, property or deed	N\$ 6
	(b) For transmission by facsimile of copies or for a photocopy or computer printout of the relevant information requested in respect of a person, property or deed, per page	N\$ 6
	(c) For the inspection of any one deed or document or page of a register relating to any particular property preserved in the deeds registry, per deed, document or page of a register	N\$ 6
	(d) For any other enquiry, continuous search or inspection pertaining to information preserved in the deeds registry, per hour or part thereof	N\$ 20

			Fee
5.	(a)	For the registration of a deed of transfer	N\$ 300
	(b)	For the registration of a bond securing immovable property	N\$ 300
	(c)	For the registration of-	
	(i)	a certificate of registered title or consolidated title;	
	(ii)	a deed of cession referred to in section 32 of the Act;	
	(iii)	a lease, sublease or cession of a lease;	
	(iv)	a general power of attorney;	
	(v)	general plans of erven or subdivisions of land and opening of registers, as referred to in section 46(3) of the Act	
		per any such registration	N\$ 300
	(d)	For the registration of-	
	(i)	a notarial deed, including antenuptial contracts;	
	(ii)	a notarial bond;	
	(iii)	a cession of a bond	N\$ 300
	(e)	For work related to a transfer by endorsement, except such a transfer in terms of the second proviso to section 16 of the Act	N\$ 300
6.	For the registration of the following transactions, namely-		
	(i)	the cancellation of a registered mortgage bond or notarial bond;	
	(ii)	cancellation of a cession of a registered mortgage bond or notarial bond;	

			Fee
	(iii)	release of any part of property hypothecated by a registered mortgage bond or notarial bond or, in the case where the debt is further secured by such a collateral bond, of all the property, or of any joint debtor or of any surety in respect of such a bond;	
	(iv)	part payment of a capital amount due in respect of any registered mortgage bond or notarial bond other than a registered mortgage bond or notarial bond intended to secure future debts;	
	(v)	reduction of cover in respect of a registered mortgage bond or notarial bond intended to secure future debts;	
	(vi)	an agreement varying the terms of a registered mortgage bond or notarial bond;	
	(vi)	waiver of preference in respect of a registered mortgage bond or notarial bond with regard to the whole or any part of the property hypothecated thereby in favour of any other such mortgage bond whether registered or about to be registered; and	
	(viii)	waiver of preference in respect of a registered real right in favour of a registered mortgage bond or notarial bond if such waiver is contained in the mortgage bond	N\$ 50
7.	For the cancellation of the registration of a lease or servitude under section 90 of the Act, for every cancellation		N\$ 50
8.	For every endorsement, note or registration of a transaction not provided for in this list (excluding the revocation of a power of attorney)		N\$ 50
9.	For furnishing to a local authority council or a regional council a return containing particulars of properties transferred, per property contained in such return		N\$ 6
10.	For taxation of fees or charges of conveyancers, notaries public or of other legal practitioners: 5% of fees or charges allowed, excluding transfer duties, stamp duties and fees of office charged in relation to any act, matter or thing done in the deeds registry.		

ANNEXURE II (Regulation 65)

TARIFF OF CONVEYANCING AND NOTARIAL FEES

[Annexure II is substituted by GN 36/2004.]

Part I – GENERAL PROVISIONS

1. The fees specified in this Tariff shall include fees in respect of the following functions performed by a conveyancer, notary public or other legal practitioner: The taking and giving of instructions; the exchange of correspondence; the perusal of completed deeds of sale, trust instruments and memoranda and articles of association; the preparation or obtaining of the necessary powers of attorney, declarations, affidavits, resolutions, company certificates, exchange control certificates or other preliminary and ancillary documents and the procurement of the required signatures on any such document; the payment of the transfer duty and rates levied by the relevant authorities; the obtaining of the necessary clearance and other certificates from the relevant authorities; the obtaining (except where otherwise provided in this Tariff) of copies of, or endorsements on, documents from the office of the Master or from any other relevant public office; the making of the necessary financial arrangements, inclusive of attending to guarantees and the payment thereof; the preparation of the necessary documents for execution or registration at the deeds registry and, where necessary, the arrangement with other conveyancers for simultaneous lodgement and registration; the furnishing of references required by the deeds registry for examination purposes; and all attendances at the deeds registry, but shall not include -
 - (a) any attendance in connection with the preparation and execution of deeds of sale, deeds of donation, deeds of exchange, preliminary partition agreements, deeds of suretyship, acknowledgements of debts, or documents of a similar nature;
 - (b) any separate act of registration of any other document which may be necessary or in connection with such act of registration;
 - (c) any attendance in connection with the resolution of a dispute between the transferror and the transferee arising from a deed of sale or any of the other documents referred to in paragraph (a) or from whatever cause;
 - (d) any attendance arising from negotiations between the parties resulting in a further agreement or an addendum or other amendment to an existing agreement;
 - (e) any consultation for the purpose of preparing an antenuptial contract;
 - (f) any attendance in connection with the opening of a township register in terms of section 46 of the Act; or
 - (g) any attendance in connection with the preparation and obtaining of documents relating to collateral security required by a mortgagee.
2. Where the work necessary to perform any act under the Act or these regulations is partly performed by one legal practitioner, conveyancer, or notary public (hereinafter called the instructed legal practitioner) on the instructions received from another legal practitioner, conveyancer, or notary public (hereinafter called the instructing legal practitioner), both the instructed legal practitioner and instructing legal practitioner shall be entitled to a fee, apportioned as set out in the relevant part in this Tariff.
3. Where this Tariff provides for a specific or proportionate fee for lodgement, such fee shall mean the fee payable by the instructing legal practitioner to the instructed legal practitioner for all attendances and correspondence in connection with the lodgement and, where necessary, the registration of any document, and for the furnishing of the necessary references in connection with such lodgement and registration, and shall be payable out of the total fee.

4. For the purposes of this Tariff-

- (a) “**folio**” means 100 printed or written words or figures or part thereof, and four figures shall be considered to be one word;
- (b) “**final work**” means the preparation of a document for execution or registration at the deeds registry and, where relevant, the obtaining of the registration of such document; the arrangement for simultaneous lodgement with another conveyancer or conveyancers, where necessary; the furnishing to the deeds registry of all the references required for examination purposes; and all attendances at the deeds registry and all correspondence that are related to the registration of a document, but shall not include any separate act of registration of any other document which may be necessary before or in connection with the first mentioned act of registration or for which special provision is made in this Tariff;
- (c) “**preliminary work**” means the taking and giving of instructions; the preparation or obtaining of the necessary powers of attorney; declarations, affidavits, resolutions or other preliminary and ancillary documents such as extracts from a company’s memorandum or articles of association, and the procurement of the required signatures on any such document; the payment of the transfer duty and rates levied by relevant authorities; the obtaining of the necessary clearance and other certificates from the relevant authorities; the obtaining (except where otherwise provided in this Tariff) of copies of, or endorsements on, documents from the office of the Master or from any other public office; the making of all financial arrangements, inclusive of attending to guarantees and the payment thereof and to all relevant correspondence, but shall not include any attendances in connection with the preparation and execution of general powers of attorney, deeds of sale, deeds of exchange, preliminary partition agreements, preliminary agreements with regard to any lease, servitude, or donation and documents of a similar nature and documents for which a special fee is provided for in this Tariff;
- (d) “**value of property**”-
 - (i) where transfer duty is payable, means the purchase price of the property or the amount on which transfer duty is payable, whichever amount is the higher;
 - (ii) where no transfer duty is payable in terms of section 9(2) of the Transfer Duty Act, 1993 (Act No. 14 of 1993), means the purchase price of the property or the declared value as determined under that Act, whichever amount is the higher;
 - (iii) where no transfer duty is payable in terms of any provision of section 9 of the Transfer Duty Act, 1993, other than subsection (2) thereof, but an official valuation from a regional, village, town or municipal council or from the Master is available, means such valuation or the consideration paid for such property, whichever amount is the higher: Provided that where no official valuation is available, it shall be deemed to be the fair value of the property as defined in section 1 of the Transfer Duty Act, 1993; or
 - (iv) where no consideration is payable and no regional, village, town or municipal council or other official valuation is available, shall be deemed to be no less than N\$20 000.

Part II – CONVEYANCING AND NOTARIAL FEES

Conveyance of ownership of immovable property(other than partition, rectification or exchange transfers)		Fee
(a)	For work in connection with the obtaining of conveyance of ownership of immovable property in any manner not specifically mentioned elsewhere in this Tariff, the fee shall be as set out in Column B of Schedule I to these regulations: Provided that in the case of conveyance in terms of the second proviso to section 16 or in terms of section 31, 45 or 45bis (bonds excluded) of the Act, and in the case of property transactions where the value of the property is N\$100 000 or less, and in respect of which a certificate is issued by the appropriate governmental or other institution to the effect that the property in question is of a low cost housing nature, the fee shall be 60% of the amount set out in Column B of the said Schedule I.	
(b)	For more than one property included in the same instrument of conveyance and in respect of which the same title conditions apply, for each additional property an additional fee of Provided that in cases where the title conditions differ a further additional fee of N\$100 per folio of the conditions shall be payable.	N\$ 100:
(c)	Apportionment of the fees set out in paragraphs (a) and (b):	
(i)	For conveyance by means of a deed of transfer the following percentage of the applicable fee shall be payable on completion-	
	(aa) of the preliminary work	66,67%
	(bb) of the final work	33,33%
(ii)	For conveyance in terms of the second proviso to section 16 or in terms of section 31, 45 or 45bis of the Act, 20% of the applicable fee shall be payable on lodgement, but not less than a fee of	N\$ 80

Conveyance of ownership of immovable property(other than partition, rectification or exchange transfers)		Fee
Endorsement of title deeds or bonds in terms of section 24bis (2) or 25(3) of the Act or in terms of the Administration of Estates Act, 1965 (Act No. 66 of 1965)		Fee
(a)	For work in connection with the obtaining of an endorsement on a title deed or bond in terms of section 24bis (2) or 25(3) of the Act or in terms of the Administration of Estates Act, 1965 (Act No. 66 of 1965), inclusive of the preparation of the necessary documents, the obtaining of the necessary ancillary documents, consents and certificates from the Master and the registrar and of relevant attendances and correspondence	N\$ 500
(b)	For more than one property or bond included in the same application for endorsement, for each additional property or bond an additional fee of	N\$ 75
(c)	Apportionment of the fees set out in paragraphs (a) and (b): The following amount of the applicable fee shall be payable on lodgement	N\$ 175
Partition, rectification and exchange transfers		Fee
(a)	For preparing a deed of partition, rectification or exchange transfer and obtaining registration thereof, inclusive of all preliminary and other work in connection therewith, but excluding any attendance in connection with the framing of any provisional agreement:	
(i)	Where the value can be determined, the fee shall be as set out in Column B of Schedule I to these regulations;	
(ii)	where the value cannot be determined, a fee of	N\$2 000
(b)	For each additional property or subdivision transferred in any one deed, an additional fee of	N\$ 100
(c)	Apportionment of the fees set out in paragraphs (a) and (b): The following percentage of the applicable fee shall be payable on completion of-	
(i)	the preliminary work	50%
(ii)	the final work	50%

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
Certificates of title or substituted title			Fee
(a)	(i)	For work in connection with the obtaining of a certificate of title under section 18, 34, 35, 36, 38, 39, 43, 46 or 64 of the Act or a certificate of substituted title under the provisions of the Deeds Registries Proclamation, 1920 (Proclamation No. 8 of 1920)	N\$ 750:
		Provided that in cases where the registration of any of the said certificates results in the subdivision of a property, the fee shall be	N\$ 1 250
	(ii)	For all matters falling under this paragraph, for each additional property an additional fee of	N\$ 75
(b)	(i)	For work in connection with the obtaining of a certificate of consolidated title under section 40 or certificate of uniform title under section 42 of the Act	N\$ 1 250
	(ii)	For every additional constituent property after the first two properties, an additional fee of	N\$ 75
(c)	Apportionment of the fees set out in paragraphs (a) and (b): The following percentage of the applicable fee shall be payable on completion-		
	(i)	of the preliminary work	33,33%
	(ii)	of the final work	66.67%

Conveyance of ownership of immovable property(other than partition, rectification or exchange transfers)		Fee
Mortgage and collateral bonds		Fee
(a)	For mortgage bonds, including surety mortgage bonds, the fee shall be as set out in Column B of Schedule II to these regulations: Provided that for all bonds where the amount is N\$100 000 or less and a certificate is issued by the appropriate governmental or other institution to the effect that the property in question is of a low cost housing nature, the fee shall be 60% of the amount set out in Column B of the said Schedule II.	
<p>[Note: For purposes of determining the fee to be charged under this paragraph, the amount of the bond on which stamp duty is being levied shall be used, and in the event of a bond exempted from stamp duty, the amount on which stamp duty would have been levied had the bond in question not been exempted shall be used.]</p>		
(b)	For collateral bonds, being mortgage bonds passed as additional security for another bond, the fee shall be 50% of the fee as set out in Column B of Schedule II to these regulations.	
(c)	For any waiver in terms of regulation 30(6) when included in a bond, an additional fee of	N\$ 350
(d)	For more than one property included in any bond referred to in paragraph (a) or (b), for each additional property an additional fee of	N\$ 75
(e)	Apportionment of the fees set out in paragraphs (a) to (d): The following percentage of the applicable fee shall be payable on completion-	
	(i) of the preliminary work	66,67%
	(ii) of the final work	33,33%
Notarial bonds		Fee
(a)	For notarial bonds, inclusive of surety notarial bonds, securing-	
	(i) an amount up to and including N\$500 000, a basic fee of	N\$ 500

Conveyance of ownership of immovable property(other than partition, rectification or exchange transfers)		Fee
	(ii)	an amount over N\$500 000, a basic fee of
	plus the relevant amount as set out in Column B of Schedule II to these regulations.	
<p>[Note: For purposes of determining the fee to be charged under paragraph (a), the amount of the bond on which stamp duty is being levied shall be used, and, in the event of a bond exempted from stamp duty, the amount on which stamp duty would have been levied had the bond in question not been exempted shall be used.]</p>		
(b)	The fee for collateral notarial bonds passed as additional security for a mortgage bond or another notarial bond between the same parties, shall be 50% of the fee set out in Column B of Schedule II to these regulations.	
(c)	Apportionment of the fees set out in paragraphs (a) and (b): The following percentage or amount of the applicable fee shall be payable-	
	(i)	on completion of the preliminary work
	(ii)	on completion of the final work
	(iii)	where the instructing notary public prepares and attests the deed, on lodgement
		50%
		50%
		N\$ 300
Antenuptial contracts		Fee
(a)	For preparing an antenuptial contract and the necessary copies in respect thereof and attending to relevant correspondence and to the execution, notarial attestation and registration of the contract	
<p>[Note: This fee does not include any consultations for the purpose of the drafting of the antenuptial contract.]</p>		
(b)	Apportionment of the fees set out in paragraph (a): The following percentage or amount of the applicable fee shall be payable on completion-	

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
	(i)	of the preliminary work	50%
	(ii)	of the final work	50%
	(iii)	where instructing notary public prepares and executes the contract, on lodgement	N\$ 150
Other notarial deeds			Fee
(a)	For preparing any notarial waiver of preference by mortgagee, usufructuary, or other holder of a limited interest, or other notarial consent required under the Act to these regulations and obtaining registration thereof		N\$ 750
(b)	For preparing any notarial lease, servitude, donation, or other notarial deed (other than those elsewhere provided for in this Tariff) and obtaining registration thereof, a fee assessed according to the length and complexity thereof		[blank]
(c)	Apportionment of the fees set out in paragraphs (a) and (b): The following percentage or amount of the applicable fee shall be payable-		
	(i)	on completion of the preliminary work	50%
	(ii)	on completion of the final work	50%
	(ii)	where the instructing notary prepares and executes the deed, on lodgement	N\$ 150

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee	
Cancellation, cession or variation of bonds, release of persons or property from bonds and waiver of preference in regard to ranking of bonds			Fee	
(a)	(i)	For preparing a consent to the cancellation of a bond, a consent to the cancellation of a cession of a bond, a release of a property or a person from a bond, a consent to reduction of cover, a consent to a part payment of capital, a waiver of preference in regard to the ranking of a bond, a waiver of preference in respect of real rights in land, or a consent of a mortgagee, usufructuary, lessee, or holder of other limited interest required by the Act or these regulations and not otherwise provided for in this Tariff (not notarial), inclusive of attending to relevant instructions and correspondence, and of attendances at the office of the Master, and of any attendance at the deeds registry to obtain registration of the relevant document	N\$ 600	
		Provided that in any such cases where there are no financial arrangements to be made by the conveyancer, the fee shall be	N\$ 400	
	(ii)	For attending to all matters referred to in subparagraph (i) in respect of any second or subsequent bond or bonds when the document or documents has or have been prepared by the same conveyancer who prepared the corresponding documents in connection with the first bond between the same parties over the same property, and the documents are or can be lodged simultaneously as a set, per bond	N\$ 100	
	(iii)	For more than two properties included in any release referred to in subparagraph (i) or (ii), for each additional property over and above the first two properties, an additional fee of	N\$ 50	

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)		Fee	
(b)	For preparing a cession of a bond or an application for the endorsement of a bond in terms of sections 45 or 45bis of the Act, inclusive of attending to relevant instructions and correspondence, and to the preparation, where necessary, of a consent by the mortgagor and the procurement of the signatures of the mortgagor and mortgagee on the cession or on the endorsement application, and of any attendance at the deeds registry to obtain registration of the cession or to obtain an endorsement and all other relevant attendances, except attendances at the office of the Master	N\$ 600:	
	Provided that in cases where there are no financial arrangements to be made by the conveyancer the fee shall be	N\$ 400	
(c)	For preparing an agreement varying the terms of a bond, inclusive of attending to relevant instructions and correspondence and to the procurement of the signatures of the mortgagor and mortgagee on the agreement, and of any attendance at the deeds registry to obtain registration of the agreement and all other relevant attendances, a fee assessed according to the length and complexity of the transaction, with a minimum fee of N\$600 and a maximum fee of N\$1000.		
(d)	(i)	For preparing a consent to substitution required in terms of section 24bis(3), 45(2)(b) or 45bis(2) of the Act, inclusive of attending to relevant instructions and correspondence and to the procurement of the necessary signatures of the mortgagee and the new debtor on the consent to substitution, and of attendances at the office of the Master	N\$ 600:
		Provided that in cases where there are no financial arrangements to be made by the conveyancer, the fee shall be	N\$ 400

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)		Fee
	(ii)	For preparing a consent to substitution required in terms of section 57 of the Act, inclusive of attending to relevant instructions and correspondence and to the procurement of the necessary signatures of the mortgagee and the new debtor on the consent to substitution, and of any attendance at the deeds registry to obtain registration of the consent to substitution and all other relevant attendances, except attendances at the office of the Master the fee shall be 60% of the fees for bonds as set out in Schedule II to these regulations.
	(iii)	For preparing the application and consent required under section 40(5)(a) of the Act, inclusive of attending to relevant instructions and correspondence and to the procurement of the signatures of the mortgagor and mortgagee on the consent, and of any attendance at the deeds registry to obtain registration of the consent and all other relevant attendances
(e)	If any of the documents referred to in these paragraphs are required to be signed by more than one mortgagee, mortgagor, usufructuary, lessee or holder of any other limited interest, for each such additional person after the first, an additional fee of	
(f)	Where attendances at the office of the Master is necessary in connection with any matter referred to in paragraph (a)(i), (b) or (d), the following additional fees shall be allowed:	
	(i)	for obtaining any certificate from the Master, per estate for any number of certificates which are or can be applied for simultaneously
	(ii)	for obtaining copies of all the necessary documents which are or can be included in one application, per estate
(g)	Apportionment of the fees set out in paragraphs (a) to (f): The following amount of the applicable fee referred to in-	

Conveyance of ownership of immovable property(other than partition, rectification or exchange transfers)			Fee
	(i)	paragraphs (a)(i), (b), (c) and (d) shall be payable on lodgement	N\$ 150
	(ii)	paragraph(a)(ii) shall be payable on lodgement	N\$ 40
	(iii)	paragraph (f)(i) shall be payable to the instructed conveyancer	N\$ 100
	(iv)	paragraph (f)(ii) shall be payable to the instructed conveyancer	N\$ 50
Miscellaneous			Fee
(a)	For attending on behalf of the transferor or transferee, the mortgagor or mortgagee, or any other person to the supervision of the registration of the transfer or bond, or to the supervision of a bond, when the documents are being prepared and lodged by another conveyancer, inclusive of attending to instructions and correspondence relevant to any such supervision-		
	(i)	where the value of the property or amount of the bond does not exceed N \$100 000	N\$ 150
	(ii)	where the value of the property or amount of the bond exceeds N\$100 000	N\$ 300
(b)	For obtaining an endorsement of any amendment of title in terms of section 44 of the Act, inclusive of attending to relevant instructions and of any attendance in connection with the obtaining of such endorsement		N\$ 150
(c)	For any attendance at the deeds registry for any certification or any act of registration required		N\$ 100
(d)	For preparing an application for an endorsement in terms of section 46 of the Act and for attendances in connection with the lodging of the title deed for endorsement		N\$ 750
(e)	(i)	For obtaining an endorsement in terms of section 93 of the Act reflecting a change of name-	

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
	(aa)	where no advertisement is required plus	N\$ 150
		for every deed after the first deed	N\$ 50
	(bb)	where advertisement is required plus	N\$ 250
		for every deed after the first deed	N\$ 50
	(ii)	For obtaining an amendment of a deed in terms of section 4(1)(b) of the Act plus	N\$ 150
		for every deed after the first deed	N\$ 50
(iii)	For preparing and lodging the consent of any interested party, including that of any bondholder that has an interest in any endorsement or amendment in terms of this paragraph	N\$ 100	
<p>[Note: The fees prescribed in this paragraph include fees for attending to instructions, correspondence and to the preparation of the necessary applications and for all relevant attendances and, where advertising is necessary, for preparing and placing the necessary advertisements.]</p>			
(f)	For any attendance to obtain an endorsement on any deed reflecting the conversion of a company to a close corporation and vice versa plus		N\$ 150
	for every deed after the first		N\$ 50

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
(g)	(i)	For any attendance and search at the deeds registry to obtain the information required, other than information required for the preparation or registration of a deed, and for attending to the relevant instructions, and correspondence, per quarter hour or part thereof	N\$ 100
	(ii)	Reporting per folio	N\$ 50
(h)	For preparing and submitting an application for a certified copy of a deed, registered lease, mortgage bond or notarial bond for a purpose referred to in regulation 53, inclusive of attending to relevant instructions, correspondence and filing of documents, and of attendances in connection with any such application		N\$ 350
(i)	For any attendance at the deeds registry to obtain a certified copy of any deed or document from the deeds registry for any purpose other than a purpose referred to in regulation 53 and for attending to the relevant instructions, correspondence, and filing of documents plus		N\$ 125
	for every deed after the first for which may be applied for in the same application		N\$ 50
(j)	For any attendance at the office of the Surveyor-General related to the metrication or amendment of any diagram or the obtaining of a copy of any diagram from the Surveyor-General and for attending to the relevant instructions, correspondence and applications plus		N\$ 125
	for every diagram after the first which can be applied for in the same application		N\$ 50
(k)	For any attendance at the office of a local authority, the Townships Board or any other authority to obtain-		
	(i)	the necessary approval required by law in respect of diagrams of sub-division and to obtain the necessary certificates or other documents	N\$ 500

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
	(ii)	an endorsement on a power of attorney or diagram	N\$ 300
(l)	(i)	For preparing an affidavit or application in connection with any separate act of registration or endorsement not specifically mentioned in this Tariff and attending to the relevant instructions and correspondence, and for any attendance in relation to such affidavit or application, or for the creation of township conditions against the remainder of the property, or for the lapsing of any condition of title or personal servitude (excluding a usufruct, usus or habitatio) plus	N\$ 300
		for the preparation of each extra folio of an affidavit or application where such document exceeds one folio in length	N\$ 50
	(ii)	For any attendance at the office of the Master to obtain the necessary endorsements in connection with any matter referred to in this paragraph, per estate	N\$ 125
	(iii)	For preparing a general power of attorney and for attendances in connection therewith	N\$ 250
	(iv)	For preparing a certificate in terms of section 42(1) of the Administration of Estates Act, 1965 (Act No. 66 of 1965), and for any attendance at the office of the Master to obtain his or her signature on such certificate, per estate for any number of certificates	N\$ 125
	(v)	For preparing an application for the registration of a lapse of usufruct, habitatio, or usus (not notarial)	N\$ 300

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
(m)	(i)	For preparing a cession of servitude in the form prescribed in Form HH to these regulations and for attending to the relevant instructions, correspondence and registration	N\$ 500
	(ii)	For more than one property included in the same cession, for each additional property an additional fee of	N\$ 100
(n)	For attending to the filing at the deeds registry of any document relating to any person, partnership, association or company, where such filing is independent of any particular act of registration being attended to by that conveyancer, and for attending to the relevant instructions and correspondence		N\$ 125
(o)	For any attendance in connection with taxation, inclusive of correspondence: a fee equal to 5% of the fees allowed on taxation shall be chargeable by the conveyancer submitting the bill of costs, and a fee equal to 5% of the total fees originally reflected in that bill of costs shall be chargeable by the conveyancer opposing taxation, subject to a minimum fee of N \$100 in respect of each conveyancer.		
(p)	Apportionment of the fees set out in paragraphs (a) to (o): The following percentage or amount of the fee referred to in-		
	(i)	paragraphs (a) and (b) shall be payable on-	
		(aa) completion of the preliminary work	33,33%
		(bb) completion of the final work	66,67%
	(ii)	paragraph (b) shall be payable on lodgement	N\$ 50
(iii)	paragraphs (d), (e)(i)(aa) and (bb), (e)(ii), (e)(iii), (g), (i), (j), (k)(i) and (ii), l(i) and (iii), m(i) and (ii), and (n) shall be payable to-		

Conveyance of ownership of immovable property (other than partition, rectification or exchange transfers)			Fee
	(aa)	the instructing legal practitioner	50%
	(bb)	the instructed legal practitioner	50%
(iv)	paragraph (h) shall be payable on lodgement		N\$ 125
(v)	paragraph (l)(ii) shall be payable to the instructed legal practitioner		N\$ 125
(vi)	paragraph (l)(iv) shall be payable to the instructed legal practitioner		N\$ 125
<p>[Note: Fees and percentages specified in this Tariff shall be nett and shall not be subject to any allowance, the customary one-third allowance having been taken into account in the apportionments. Where the instructing legal practitioner merely takes instructions from his or her client and thereafter sends his or her whole file to the instructed legal practitioner who then does all the work, the former shall, as a general rule, be entitled to 20 per cent and the latter to 80 per cent of the fee where the fee is divided on a percentage basis.]</p>			

Part III – APPORTIONMENT OF FEES FOR PRELIMINARY WORK

Where a legal practitioner who attends to the preliminary work in connection with any conveyancing matter requests another legal practitioner to do part of that preliminary work, the former shall from his or her share of the fees pay to the latter the following:

[The word “preliminary” is misspelt in its first use in the introductory paragraph, as reproduced above.]

(a)	For obtaining all the necessary endorsements from the Master for any number of certificates which are or can be applied for simultaneously, per estate	N\$ 75
(b)	For obtaining the copies of documents required for lodgement in the deeds registry, which are or can be included in one application (exclusive of searches), per application	N\$ 25

(c)	For obtaining a clearance or other similar certificate from a local authority or other authority or a body corporate, per certificate	N\$ 60
(d)	For attending to the payment of transfer duty and for uplifting a receipt in respect thereof	N\$ 50
(e)	For any other attendance not mentioned in paragraph (a), (b) or (c), per half hour or part thereof	N\$ 60
(f)	For preparing a document, per folio or part thereof	N\$ 30
(g)	For perusing and certifying a guarantee for payment	N\$ 60
[Note: The above fees shall be nett and shall not be subject to any allowance, the customary one-third allowance having been taken into account.]		

Part IV – APPORTIONMENT OF FEES WHERE MANDATE IS TERMINATED

The following shall be a guideline for the apportionment of fees where a mandate is terminated at any stage before execution or registration:

(a)	For attending to the taking of instructions and the planning of the transaction, 20% of the prescribed fee	20%
(b)	For preparing the preliminary documents, an additional 20% of the prescribed fee	40%
(c)	For attending to or procuring the signing of the preliminary documents, an additional 10% of prescribed fee	50%
(d)	For attending to all the necessary financial arrangements before lodgment, an additional 20% of prescribed fee	70%

(e)	For preparing a deed or other document for execution or registration, an additional 10% of the prescribed fee	80%
(f)	For lodgement, an additional 10% of the prescribed fee	90%

Part V – APPLICATION OF TARIFF

This Tariff shall apply only in relation to any act-

- (a) in respect of which the fees referred to in regulation 65 of these regulations shall be payable; and
- (b) which is performed by a legal practitioner, a notary public or a conveyance in connection with any transaction in respect of which he or she received an instruction on or after the date of commencement of these regulations.

SCHEDULE I	
COLUMN A Value of property	COLUMN B Fees for conveyance of immovable property
N\$20 000 or less	N\$ 800
Over N\$20 000 up to and including N\$30 000	N\$ 1 300
Over N\$30 000 up to and including N\$45 000	N\$ 1 500
Over N\$45 000 up to and including N\$60 000	N\$ 1 800
Over N\$60 000 up to and including N\$70 000	N\$ 2 000
Over N\$70 000 up to and including N\$80 000	N\$ 2 500
Over N\$80 000 up to and including N\$90 000	N\$ 2 700
Over N\$90 000 up to and including N\$100 000	N\$ 2 900
Over N\$100 000 up to and including N\$125 000	N\$ 3 000
Over N\$125 000 up to and including N\$150 000	N\$ 3 100
Over N\$150 000 up to and including N\$175 000	N\$ 3 300

SCHEDULE I	
Over N\$175 000 up to and including N\$200 000	N\$ 3 500
Over N\$200 000 up to and including N\$250 000	N\$ 3 800
Over N\$250 000 up to and including N\$300 000	N\$4 400
Over N\$300 000 up to and including N\$350 000	N\$4 700
Over N\$350 000 up to and including N\$400 000	N\$5 100
Over N\$400 000 up to and including N\$450 000	N\$5 500
Over N\$450 000 up to and including N\$500 000	N\$6 000
Over N\$500 000	N\$6 000 for the first N\$500 000 plus N\$800 per N\$100 000 or part thereof above that up to and including N\$1 000 000 or part thereof above that up to and including N\$1 000 000 whereafter the fee shall be N\$400 per N\$100 000 or part thereof up to and including N\$5 000 000, whereafter the fee shall be N\$200 per N\$100 000 or part thereof.
SCHEDULE II	
COLUMN A Amount of Bond	COLUMN B Fees for Mortgage Bonds
N\$20 000 or less	N\$ 550
Over N\$20 000 up to and including N\$25 000	N\$ 750
Over N\$25 000 up to and including N\$30 000	N\$ 900
Over N\$30 000 up to and including N\$35 000	N\$ 1 000
Over N\$35 000 up to and including N\$40 000	N\$ 1 100
Over N\$40 000 up to and including N\$45 000	N\$ 1 150

SCHEDULE I	
Over N\$45 000 up to and including N\$50 000	N\$ 1 200
Over N\$50 000 up to and including N\$60 000	N\$ 1 300
Over N\$60 000 up to and including N\$70 000	N\$ 1 400
Over N\$70 000 up to and including N\$80 000	N\$ 1 600
Over N\$80 000 up to and including N\$90 000	N\$ 1 700
Over N\$90 000 up to and including N\$100 000	N\$ 1 800
Over N\$100 000 up to and including N\$125 000	N\$ 1 900
Over N\$125 000 up to and including N\$150 000	N\$ 2 000
Over N\$150 000 up to and including N\$175 000	N\$ 2 100
Over N\$175 000 up to and including N\$200 000	N\$ 2 200
Over N\$200 000 up to and including N\$250 000	N\$ 2 400
Over N\$250 000 up to and including N\$300 000	N\$ 2 700
Over N\$300 000 up to and including N\$350 000	N\$ 3 000
Over N\$350 000 up to and including N\$400 000	N\$ 3 400
Over N\$400 000 up to and including N\$450 000	N\$ 3 700
Over N\$450 000 up to and including N\$500 000	N\$ 4 000

SCHEDULE I	
Over N\$500 000	N\$4 000 for the first N\$500 000 plus \$600 per n[N]\$100 000 or part thereof above that up to and including N\$1 000 000 whereafter the fee shall be N\$300 per N \$100 000 or part thereof up to and including N\$5 000 000 whereafter the fee shall be N\$150 per N \$100 000 or part thereof.

ANNEXURE III

PRESCRIBED FORMS

[Please note: The forms have not been reproduced.]