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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 666.

3 April 1991

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

No. 14 of 1991: Mining Titles Registration Amendment Act, 1991.

No. 666.

3 April 1991

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 14 van 1991: Wysigingswet op die Registrasie van Myntitels, 1991.

Act No. 14, 1991

MINING TITLES REGISTRATION AMENDMENT ACT, 1991

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Mining Titles Registration Act, 1967, so as to delete the definition of "registrar"; to replace the expression "registrar" in the said Act by the expression "Director-General"; to empower the Director-General: Mineral and Energy Affairs to appoint or designate one or more officers employed at the Mining Titles Office to do any act or thing which may lawfully be done under the said Act or any other law by the said Director-General; to provide for the proof of certain facts in connection with registrations in terms of the said Act by means of certain certificates; to further regulate the registration of rights in the name of married persons; and to further regulate the endorsement on deeds where marriages are dissolved by divorce, or joint estates are divided, or the matrimonial property system is changed; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 18 March 1991.)*

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

Amendment of section 1 of Act 16 of 1967, as amended by section 1 of Act 60 of 1980

1. Section 1 of the Mining Titles Registration Act, 1967 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definition of "registrar". 5

Substitution of expression "registrar"

2. The principal Act is hereby amended by the substitution for the expression "registrar" of the expression "Director-General" wherever it occurs in the principal Act. 10

Amendment of section 3 of Act 16 of 1967

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

"(b) the **[Minister]** Director-General may appoint or designate **[a Deputy Registrar of Mining Titles and]** one or more **[Assistant Registrars of Mining Titles]** officers employed at the Mining Titles Office who shall have the power, subject to the provisions of this Act and to the directions of the **[registrar]** Director-General, to do any act or thing which may lawfully be done under this Act or any other law by the **[Registrar of Mining Titles]** Director-General." 15 20

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordeninge aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

WET

Tot wysiging van die Wet op die Registrasie van Myntitels, 1967, ten einde die omskrywing van "registrateur" te skrap; die uitdrukking "registrateur" in genoemde Wet deur die uitdrukking "Direkteur-generaal" te vervang; die Direkteur-generaal: Mineraal- en Energiesake te magtig om een of meer beamptes in diens by die Mynbriewekantoor aan te stel of aan te wys om enige handeling te verrig of enigiets te doen wat wettig deur genoemde Direkteur-generaal ingevolge genoemde Wet of enige ander wetsbepaling verrig of gedoen kan word; voorsiening te maak dat sekere feite in verband met registrasies ingevolge genoemde Wet deur middel van sekere sertifikate bewys kan word; die registrasie van regte op naam van getroude persone verder te reël; en om die aantekening op aktes verder te reël waar huwelike deur egskeiding ontbind word, of gemeenskaplike boedels verdeel word, of die huweliks-goederebedeling verander word; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Maart 1991.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 16 van 1967, soos gewysig deur artikel 1 van Wet 60 van 1980

- 5 1. Artikel 1 van die Wet op die Registrasie van Myntitels, 1967 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing van "registrateur" te skrap.

Vervanging van uitdrukking "registrateur"

2. Die Hoofwet word hierby gewysig deur die uitdrukking "registrateur" oral waar dit in die Hoofwet voorkom deur die uitdrukking "Direkteur-generaal" te vervang.

Wysiging van artikel 3 van Wet 16 van 1967

3. Artikel 3 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

- 15 "(b) kan die [Minister 'n Adjunk-registrateur van Mynbriewe en] Direkteur-generaal een of meer [Assistent-registrateurs van Mynbriewe] beamptes in diens by die Mynbriewekantoor aanstel of aanwys wat, behoudens die bepalings van hierdie Wet en die opdragte van die [registrateur] Direkteur-generaal, bevoeg is om enige handeling te verrig of enigiets te doen wat wettig deur die [Registrateur van Mynbriewe] Direkteur-generaal ingevolge hierdie Wet of ander wetsbepalings verrig of gedoen kan word."
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Amendment of section 9 of Act 16 of 1967

4. Section 9 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) If the **[Registrar of Mining Titles]** Director-General is unable to attend any meeting of the board, the **[Deputy Registrar of Mining Titles shall act as chairman of such meeting, or if no such deputy has been appointed or if, having been appointed, he is unable to attend the meeting, an Assistant Registrar of Mining Titles]** most senior available officer employed at the Mining Titles Office shall act as chairman of the meeting."

Insertion of section 15A in Act 16 of 1967

5. The following section is hereby inserted in the principal Act after section 15:

"Proof of certain facts in connection with deeds and documents by means of certain certificates

15A. (1) A conveyancer who prepares a deed or other document for the purposes of registration or filing in the Mining Titles Office, and who signs a prescribed certificate on such deed or document, accepts by virtue of such signing the responsibility, to the extent prescribed by regulation for the purposes of this section, for the accuracy of those facts mentioned in such deed or document or which are relevant in connection with the registration or filing thereof, and which are prescribed by regulation.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person other than a conveyancer, who is prescribed by regulation, and who has in accordance with the regulations prepared a deed or other document prescribed by regulation for registration or filing in the Mining Titles Office.

(3) The registrar shall accept, during the course of his examination of a deed or other document in accordance with the provisions of this Act, that the facts referred to in subsection (1) in connection with the registration or filing of a deed or other document in respect of which a certificate referred to in subsection (1) or (2) has been signed, have for the purposes of such examination been conclusively proved: Provided that the foregoing provisions of this subsection shall not derogate from the obligation of the registrar to give effect to any order of court or any other notification recorded in the Mining Titles Office in terms of this Act or any other law, and which affects the registration or filing of such deed or other document."

Substitution of section 16 of Act 16 of 1967

6. The following section is hereby substituted for section 16 of the principal Act:

"Registration of rights in name of married persons

16. (1) From the commencement of the Mining Titles Registration Amendment Act, 1991, rights and bonds which would upon transfer, cession or registration thereof form part of a joint estate shall be registered in the name of the husband and the wife, unless that transfer, cession or registration takes place only in the name of a partnership, and the husband or wife is involved therein only in the capacity of partner in that partnership.

(2) Every deed executed or attested by the registrar, or attested by a notary public and required to be registered in the Mining Titles Office, and made by or on behalf of or in favour of any person, shall—

- (a) state the full name and marital status of the person concerned;
- (b) where the marriage concerned is governed by the law in force in the Republic or any part thereof, state whether the marriage was contracted in or out of community of property;

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Wysiging van artikel 9 van Wet 16 van 1967

4. Artikel 9 van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

5 “(6) Indien die **[Registrateur van Mynbriewe]** Direkteur-generaal ’n vergadering van die raad nie kan bywoon nie, tree die **[Adjunk-registrateur van Mynbriewe by daardie vergadering as voorsitter op, of indien so ’n adjunk nie aangestel is nie of indien hy, hoewel aangestel, die vergadering nie kan bywoon nie, tree ’n Assistent-registrateur van Mynbriewe]** mees senior beskikbare beampte in diens by die Mynbriewekantoor by die vergadering as voorsitter op.”

Invoeging van artikel 15A in Wet 16 van 1967

5. Die volgende artikel word hierby in die Hoofwet na artikel 15 ingevoeg:

“Bewys van sekere feite in verband met aktes en dokumente deur middel van sekere sertifikate

15 **15A. (1)** ’n Transportbesorger wat ’n akte of ’n ander dokument vir die doeleindes van registrasie of liassering in die Mynbriewekantoor opstel, en ’n voorgeskrewe sertifikaat op so ’n akte of dokument onderteken, aanvaar uit hoofde van so ’n ondertekening verantwoordelikheid, in die mate by regulasie vir die doeleindes van hierdie artikel voorgeskryf, vir die korrektheid van dié feite wat in so ’n akte of dokument vermeld word of wat in verband met die registrasie of liassering daarvan relevant is, en wat by regulasie voorgeskryf word.

20 (2) Die bepalings van subartikel (1) is *mutatis mutandis* van toepassing op ’n ander persoon as ’n transportbesorger, wat by regulasie voorgeskryf word, en wat ooreenkomstig die regulasies die in die regulasies voorgeskrewe akte of ander dokument vir registrasie of liassering in die Mynbriewekantoor opgestel het.

25 (3) Die registrateur aanvaar in die loop van sy ondersoek van ’n akte of ander dokument ooreenkomstig die bepalings van hierdie Wet, dat die feite in subartikel (1) bedoel ten opsigte van die registrasie of liassering van ’n akte of ander dokument in verband waarmee ’n in subartikel (1) of (2) bedoelde sertifikaat onderteken is, vir die doeleindes van so ’n ondersoek afdoende bewys is: Met dien verstande dat die voorgaande bepalings van hierdie subartikel nie afbreuk doen nie aan ’n verpligting van die registrateur om uitvoering te gee aan ’n hofbevel of aan enige ander kennisgewing wat kragtens hierdie Wet of enige ander wetsbepaling in die Mynbriewekantoor aangeteken is en wat die registrasie of liassering van die betrokke akte of ander dokument raak.”

Vervanging van artikel 16 van Wet 16 van 1967

40 6. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:

“Registrasie van regte op naam van getroude persone

45 **16. (1)** Vanaf die inwerkingtreding van die Wysigingswet op die Registrasie van Myntitels, 1991, word regte of verbande wat by die transport, sessie of registrasie daarvan deel van ’n gemeenskaplike boedel sou uitmaak, op naam van die man en vrou geregistreer, tensy dié transport, sessie of registrasie slegs op naam van ’n vennootskap geskied, en die man of vrou slegs in die hoedanigheid van vennoot in daardie vennootskap daarby betrokke is.

50 (2) Elke akte deur of ten behoeve of ten gunste van enige persoon wat deur die registrateur verly of geattesteer is, of deur ’n notaris geattesteer is en in die Mynbriewekantoor geregistreer moet word, moet—

(a) die volle naam en huwelikstaat van die betrokke persoon vermeld;
 (b) waar die reg wat in die Republiek of ’n deel daarvan geld die betrokke huwelik bepaal, vermeld of die huwelik in of buite
 55 gemeenskap van goed aangegaan is;

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(c) where the person concerned is married in community of property, state the full name of his spouse; and

(d) where the marriage concerned is governed by the law of any other country, state that the marriage is governed by the law of that country.

(3) Where a marriage in community of property has been dissolved by the death of one of the spouses before a right which on transport or cession thereof would have formed part of the joint estate could be transferred or ceded, that right shall be transferred or ceded to the joint estate of the spouses, pending the administration thereof, and is, subject to the provisions of any disposition with regard to that right, deemed to be the joint property of the surviving spouse and of the estate of the deceased spouse.

(4) If a right forming part of a joint estate is registered in the Mining Titles Office in the name of either the husband or the wife, the registrar shall on the written application of the husband or the wife, as the case may be, if he is satisfied as to the relevant facts, make a note on the title deed of that right or, if the title deed can for any reason not be produced to him, only on the registry duplicate thereof, and in the appropriate registers, to the effect that it is a right in respect of which the provisions of section 15 (2) (a) of the Matrimonial Property Act, 1984, apply.

(5) A woman married out of community of property, or married in terms of a marriage the legal consequences of which are governed by the law of any other country, shall be assisted by her husband in executing any deed or other document required or permitted to be registered in the Mining Titles Office or required or permitted to be produced in connection with any such deed or document, unless the marital power has been excluded or unless the assistance of the husband is in terms of this Act or on other grounds deemed by the registrar to be unnecessary."

Amendment of section 28 of Act 16 of 1967

7. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) If rights are or a bond is registered in the name of the survivor of two spouses who were married in community of property or in the name of the joint estate of such spouses, or in the name of both such spouses, and such survivor has lawfully acquired the share of the deceased spouse in the rights or bond, the registrar shall, subject to the provisions of section 23, on written application by the executor in the estate of the deceased spouse and by such survivor, save where such survivor has already signed as executor, accompanied by such other documents as may be prescribed, endorse on the title deeds evidencing the rights or on the bond that the survivor is entitled to deal with such rights or bond, and thereupon the survivor shall be entitled to deal therewith as if he had taken formal transfer or cession into his own name of the share of the deceased spouse in the rights or bond."

Substitution of section 29 of Act 16 of 1967

8. The following section is hereby substituted for section 29 of the principal Act:

"Endorsement of deeds on divorce, division of joint estate, or change of matrimonial property system

29. (1) If rights are or a bond is registered in the Mining Titles Office in the name of one of two spouses or in the name of both spouses who—

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(c) waar die betrokke persoon in gemeenskap van goed getroud is, die volle naam van sy gade vermeld; en

(d) waar die reg van 'n ander land die betrokke huwelik bepaal, vermeld dat die huwelik deur die reg van daardie land bepaal word.

(3) Waar 'n huwelik in gemeenskap van goed deur die dood van een van die gades ontbind is voordat 'n reg wat by die transport of sessie daarvan deel van die gemeenskaplike boedel sou uitmaak, getranspoteer of gesedeer kon word, word daardie reg aan die gemeenskaplike boedel van die gades getranspoteer of gesedeer in afwagting van die bereddering van die boedel, en word dit, behoudens die bepalings van 'n beskikking met betrekking tot daardie reg, geag die gemeenskaplike eiendom van die langselewende gade en die boedel van die oorlede gade te wees.

(4) Indien 'n reg wat deel van 'n gemeenskaplike boedel uitmaak in die Mynbriewekantoor op naam van of die man of die vrou geregistreer is, moet die registrateur, indien hy van die tersaaklike feite oortuig is, op skriftelike aansoek van die man of die vrou, na gelang van die geval, op die titelbewys van daardie reg of, indien die titelbewys om die een of ander rede nie aan hom voorgelê kan word nie, slegs op die registrasieduplikaat daarvan, en in die toepaslike registers, 'n aantekening maak met die strekking dat dit 'n reg is ten opsigte waarvan die bepalings van artikel 15 (2) (a) van die Wet op Huweliksgoedere, 1984, van toepassing is.

(5) 'n Vrou wat buite gemeenskap van goed getroud is, of getroud is ingevolge 'n huwelik waarvan die regsgevolge deur die reg van 'n ander land bepaal word, moet deur haar man bygestaan word by die verlyding van enige akte of ander dokument wat in die Mynbriewekantoor geregistreer moet of kan word of wat vertoon moet of kan word in verband met so 'n akte of dokument, tensy die maritale mag uitgesluit is of tensy die registrateur ingevolge die bepalings van hierdie Wet of om ander redes die bystand van die man onnodig ag."

Wysiging van artikel 28 van Wet 16 van 1967

7. Artikel 28 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Indien regte of 'n verband geregistreer is op naam van die langselewende van twee eggenote wat in gemeenskap van goed getroud was of op naam van die gesamentlike boedel van sodanige eggenote, of op naam van beide sodanige eggenote, en die langselewende eggenoot die oorlede eggenoot se aandeel in die regte of verband wettig verkry het, moet die registrateur, behoudens die bepalings van artikel 23, op skriftelike aansoek deur die eksekuteur in die boedel van die oorlede eggenoot en deur bedoelde langselewende, behalwe waar bedoelde langselewende reeds as eksekuteur geteken het, vergesel van die ander dokumente wat voorgeskryf is, op die titelbewys van die regte of op die verbandakte aanteken dat die langselewende geregtig is om oor daardie regte of verband te beskik, en daarop is die langselewende geregtig om daarvoor te beskik asof hy formeel oordrag of sessie van die oorlede eggenoot se aandeel in die regte of verband op sy eie naam verkry het."

Vervanging van artikel 29 van Wet 16 van 1967

8. Artikel 29 van die Hoofwet word hierby deur die volgende artikel vervang:

"Aantekening op aktes by egskeiding, verdeling van gemeenskaplike boedel, of verandering van huweliksgoederebedeling

29. (1) Indien regte of 'n verband in die Mynbriewekantoor geregistreer is op naam van een van twee eggenote of op naam van beide eggenote wat—

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- (a) were married in community of property but have been divorced, and the person in whose name such rights are or bond is registered or, where such rights are or bond is registered in the name of both spouses, one of them has lawfully acquired the share of his former spouse in the rights or bond; or 5
- (b) are or were married in community of property, and a court has made an order, or has made an order and given an authorization, under section 20 or 21 (1) of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), as the case may be, in terms of which the rights are or bond is awarded to the person in whose name it is registered or, where the rights are or bond is registered in the name of both spouses, to one of them, 10
- the registrar may, on written application by that person, accompanied by such documents as the registrar deems necessary, endorse on the title deeds of the rights or on the bond that such person is entitled to deal with such rights or bond, and thereupon such person shall be entitled to deal therewith as if he had taken formal transfer or cession into his name of the share of the former spouse or his spouse, as the case may be, in the rights or bond. 15
- (2) If rights are or a bond is registered in the Mining Titles Office in the name of both spouses who— 20
- (a) were married in community of property but have been divorced, and such rights accrue or bond accrues to both the former spouses in undivided shares in terms of the division of the joint estate; 25
- (b) are or were married in community of property and a court has made an order, or has made an order and given an authorization under section 20 or 21 (1) of the Matrimonial Property Act, 1984 (Act No. 88 of 1984), as the case may be, in terms of which the rights are or bond is awarded to both spouses in undivided shares, 30
- the registrar may on written application by both spouses, accompanied by such documents as the registrar deems necessary, endorse on the title deeds of the rights or on the bond, that such spouses are entitled to deal with such rights or bond, and thereupon such spouses shall be entitled to deal therewith as if they had taken formal transfer or cession into their names of their respective shares in such rights or bond. 35
- (3) If the rights mentioned in subsection (1) or (2) are hypothecated under a registered mortgage bond, the provisions of section 28 (2), (3) and (4) shall *mutatis mutandis* apply.”

Short title and commencement

9. (1) This Act shall be called the Mining Titles Registration Amendment Act, 40 1991.

(2) Sections 1, 2, 3 and 4 shall come into operation on the date of commencement of section 66 of the Minerals Act, 1991.

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- 5 (a) in gemeenskap van goedere getroud was maar geskei is, en die persoon op wie se naam die regte of verband geregistreer is of, waar sodanige regte of verband op naam van beide eggenote geregistreer is, een van hulle wettig die aandeel van sy voormalige eggenoot in die regte of verband verkry het; of
- 10 (b) in gemeenskap van goed getroud is of was, en 'n hof 'n lasgewing uitgereik het, of 'n lasgewing uitgereik en 'n magtiging verleen het, kragtens artikel 20 of 21 (1) van die Wet op Huweliksgoedere, 1984 (Wet No. 88 van 1984), na gelang van die geval, ingevolge waarvan die regte of verband aan die persoon op wie se naam dit geregistreer is of, waar die regte of verband op naam van beide eggenote geregistreer is, aan een van hulle toegeken is,
- 15 kan die registrateur op skriftelike aansoek deur daardie persoon, vergesel van die dokumente wat die registrateur nodig ag, op die titelbewys van die regte of op die verbandakte aanteken dat daardie persoon geregtig is om oor bedoelde regte of verband te beskik, en daarop is daardie persoon geregtig om daaroor te beskik asof hy formeel transport of 'n sessie op sy naam van die voormalige eggenoot of sy eggenoot, na gelang van die geval, se aandeel in die regte of verband verkry het.
- 20 (2) Indien regte of 'n verband in die Mynbriewekantoor geregistreer is op naam van beide eggenote wat—
- (a) in gemeenskap van goedere getroud was maar geskei is, en daardie regte of verband aan albei die voormalige eggenote in onverdeelde aandeel toekom ingevolge die verdeling van die gemeenskaplike boedel;
- 25 (b) in gemeenskap van goedere getroud is of was, en 'n hof 'n lasgewing uitgereik het, of 'n lasgewing uitgereik en 'n magtiging verleen het kragtens artikel 20 of 21 (1) van die Wet op Huweliksgoedere, 1984, (Wet No. 88 van 1984), na gelang van die geval, ingevolge waarvan die regte of verband aan beide eggenote in onverdeelde aandeel toegeken is,
- 30 kan die registrateur op skriftelike aansoek deur beide eggenote, vergesel van die dokumente wat die registrateur nodig ag, op die titelbewys van die regte of op die verbandakte aanteken dat daardie eggenote geregtig is om oor bedoelde regte of verband te beskik, en daarop is daardie eggenote geregtig om daaroor te beskik asof hulle formeel transport of sessie op hulle name van elkeen se onderskeie aandeel in die regte of verband verkry het.
- 35 (3) Indien die in subartikel (1) of (2) vermelde regte met 'n geregistreerde verband beswaar is, is die bepalings van artikel 28 (2), (3) en (4) mutatis mutandis van toepassing.”
- 40

Kort titel en inwerkingtreding

9. (1) Hierdie Wet heet die Wysigingswet op die Registrasie van Myntitels, 1991.

(2) Artikels 1, 2, 3 en 4 tree in werking op die datum van inwerkingtreding van artikel 66 van die Mineraalwet, 1991.

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