

GOVERNMENT NOTICE

DEPARTMENT OF AGRICULTURE LAND REFORM AND RURAL DEVELOPMENT

No.

, 20..

ELECTRONIC DEEDS REGISTRATION SYSTEMS ACT NO. 19 OF 2019

I, Thokozile Didiza, Minister of Agriculture, Land Reform and Rural Development, hereby publishes the regulations made in terms of section 5(1) of the Electronic Deeds Registration Systems Act, 2019 (Act No. 19 of 2019). The regulations will come into operation on date of commencement of sections 1, 3, 4, 5 and 6 of the Electronic Deeds Registration Systems Act, 2019.

MS THOKOZILE DIDIZA, (MP)

MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

REGULATIONS IN TERMS OF THE ELECTRONIC DEEDS REGISTRATION SYSTEMS ACT NO. 19 OF 2019

The Minister of Agriculture, Land Reform and Rural Development, has under section 5(1) of the Electronic Deeds Registration Systems Act, 2019 (Act No. 19 of 2019), made the regulations set out in the Schedule.

SCHEDULE

ARRANGEMENT OF REGULATIONS

Regulations

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1. Definitions

In these Regulations, any word or expression defined in the Act has the same meaning in the Regulations, unless the context indicates otherwise, and –

“**Act**” means the Electronic Deeds Registration Systems Act, 2019 (Act No.19 of 2019), and any amendment thereof;

“**statutory officer**” means a person, other than a conveyancer or notary public, duly authorised by any law to prepare a deed or other document for registration or filing in a deeds registry;

“**directive**” means a directive issued by the Chief Registrar of Deeds, as contemplated by section 2 of the Act;

“**e-DRS**” means the "electronic deeds registration system" as defined in section 1 of the Act; and

“**lodge**” means electronic submission of a deed or document to the deeds registration system for the purpose of registration, and “lodgement” has a corresponding meaning.

2. Categories of authorised users

(a) Authorised users are categorised as follows:

(i) *Primary users*: conveyancers, notaries and statutory officers who may use the e-DRS for purposes of preparation, lodgement, registration and execution of deeds and documents.

(ii) *Secondary users*: persons that use the e-DRS for submission of supporting documentation relating to the registration of deeds and documents for verification and authentication purposes.

(iii) *Internal users*: deeds registry officials that perform functions pertaining to deeds registration examination, registration and execution or functions pertaining to deeds support.

(iv) *Public users*: public users using the e-DRS for purposes of obtaining information.

3. Authorised user registration and user file

All users must be registered as users of the e-DRS in the manner and under the conditions as stipulated in directives issued by the Chief Registrar of Deeds.

- (1) Only a conveyancer, notary public or statutory officer may register as a primary user of the e-DRS.
- (3) A primary user must, in respect of any dealing in terms of this Act:-
 - (a) keep a file in which he or she stores all original deeds, notices of registration of deeds, supporting documents, approvals, consents, powers, receipts and any other document lodged for purposes of registration or filing in a deeds registry;
 - (b) retain his or her file and the contents thereof for a period of at least ten years after the date of execution, registration or filing in a deeds registry; and
 - (c) take such reasonable precautions for the safe custody of such file as may be necessary.

4. Preparation of deeds and documents

- (1) Deeds and documents must be prepared by persons authorised thereto under the Deeds Registries Act and the Sectional Titles Act.
- (2) All deeds for execution or registration in respect of which a form is prescribed by the Deeds Registries Act, Sectional Titles Act or other legislation, must be electronically prepared on the e-DRS.
- (3) All deeds for execution in respect of which there is no prescribed form in the Deeds Registries Act and the Sectional Titles Act, and all deeds attested by a notary public, as well as all documents to be registered, whether a form is prescribed or not, must be prepared in accordance with the provisions of the said Acts.

5. Lodgement of deeds and documents

- (1) Deeds and documents intended for execution, registration or filing, as the case may be, may be lodged by primary users only.
- (2) Supporting documentation relating to the registration of deeds and documents for verification and authentication purposes may be lodged by secondary users.
- (3) Deeds and documents must be lodged through the deeds registration portal to the deeds registry which serves the area in which the property is situated.
- (4) Deeds as contemplated by regulation 4(2) must be lodged by using the functionality on the e-DRS provided for that purpose and be accompanied, where

necessary, by supporting documents that must be uploaded or scanned into the e-DRS.

(5) Deeds and documents as contemplated by regulation 4(3), must be lodged by scanning it into the system, and be accompanied, where necessary, by supporting documents that must be scanned and uploaded into the e-DRS.

(6) By lodgement, uploading or scanning of a deed or document electronically, the relevant authorized user warrants that it was made from the original document or from a certified copy as contemplated by regulations 20(7) or 65(10) of the Deeds Registries Act, or that it is a submission of an electronic generated document.

6. Procedure for electronic record storing

(1) e-DRS records management shall be in line with electronic records management, policies, principles and requirements relevant to governmental bodies.

(2) e-DRS data shall be stored on a deeds data storage infrastructure or a secured and approved Government partner's storage infrastructure.

(3) Electronic deeds and documents, as well as other transactional related information shall be stored in a secure and auditable manner.

(4) Electronic deeds, documents and data shall be archived and backed up according to the ICT Policy and the Deeds Backup and Disaster Recovery Plan of the Department of Agriculture, Land Reform and Rural Development.

7. Manner of electronic payment

(1) Primary and public users must pay the fees of office as prescribed by the Deeds Registries Act.

(2) All users must do pre-payments for transactions.

(3) Primary user expenditure shall be managed through a prepaid virtual account on the e-DRS system.

(4) Primary user deposits into the deeds registration trading bank account shall be reflected in the e-DRS virtual account through the use of unique reference identities.

(5) Money deposited shall be allocated to the client's e-DRS virtual account for transacting on the e-DRS: Provided that all applicable prescribed transaction fees shall be deducted from the client's virtual account.

(6) Public user transactions shall be payable through virtual accounts; debit or credit card speed points; or electronic payment gateways, before delivery of products or processing of requests.

(7) The prescribed fees must be paid by using the functionality on the e-DRS provided for that purpose: Provided that the prescribed submission fee is payable by the primary user upon lodgement of a deed or document, and the prescribed registration fee is payable prior to the date of registration of the relevant deed or document.

8. Execution and registration of deeds and documents

(1) The Registrar's signature in respect of the execution or registration of any deed or document, and the signature of a primary user on any deed to be executed by a Registrar, shall be an electronic signature and it shall be deemed that the primary user has signed in the presence of the Registrar.

(2) The e-DRS shall issue to a primary user notification of confirmation of registration upon date of registration of a deed or document.

9. Short title

These Regulations are called the Electronic Deeds Registration Systems Regulations, 20....