

CHIEF REGISTRAR'S CIRCULAR NO. 9 OF 2011

DECLARATION OF NATIONAL ROADS AND TRANSFER OF SUB DIVIDED LAND TO THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED

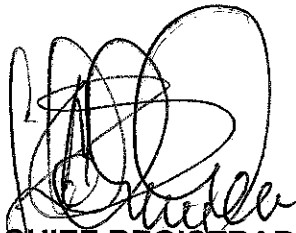
1. The Minister of Transport has, in terms of section 40(1)(a) of the South African National Roads Agency Limited and National Roads Act, 1998 (Act 7 of 1998), declared various '*public roads*' as '*national roads*'. The said declarations have taken place upon recommendation of the South African National Roads Agency Limited ('SANRAL') and with the agreement of the Premier, as required by section 40(2)(a) of Act 7 of 1998.

(See Chief Registrar's Circular 1/2002 for a discussion on the endorsement of title deeds regarding the declaration of national roads).

2. Portions of land on which the '*national roads*' are situated must be transferred to SANRAL and such transfers will result in the land having to be subdivided. The title deeds of the land affected contain conditions imposed in terms of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940), *inter alia* that the land may not be subdivided without the consent of the Premier. However, the provisions of Act 21 of 1940 relate to '*public roads*' and is not applicable to '*national roads*' which are administrated by the provisions of Act 7 of 1998.
3. Consent for the subdivision of the relevant land must, in terms of section 49 of Act 7 of 1998, be given by SANRAL. Due to SANRAL being the authorising agency as well as the transferee of the land in question, SANRAL has indicated, at a meeting with the Office of the Chief Registrar of Deeds on 22 July 2011, that its consent for subdivision will not be necessary in these particular instances.
4. Withdrawal of a declaration in terms section 40(1)(b) of Act 7 of 1998 has the effect of a '*national road*' converting back to a '*public road*'. Several such withdrawals are envisaged by SANRAL and it has indicated its preference for the '*Act 21 of 1940 conditions*' to remain in the title deeds of the land to be transferred, as well as the incorporation thereof in the new deeds of transfer. This will avoid having to re-introduce such conditions upon withdrawal of a declaration.
5. In order to create a uniform practice in the different deeds registries and also to support the objectives of SANRAL, Registrars of Deeds must allow the registration of transfers of land, without the lodgement of consent for subdivision and the remaining / incorporation of the '*Act 21 of 1940 conditions*' in the title deeds, as discussed in paragraphs 3 and 4 *supra*.

(The title deeds of the affected land must contain a condition / endorsement regarding the declaration of the national road, as discussed in CRC1/2002, and the causa of the Deeds of Transfer must refer to the declaration and transfer of the national roads to SANRAL).

6. RCR 69 of 2010 is hereby suspended and will be referred to the next Registrars' Conference for further discussion and possible withdrawal.



CHIEF REGISTRAR OF DEEDS
DATE: 24/08/11.

REFERENCE: A. 1/3/1/126 AND A.6/2/P
RINGBINDER: 68

CHIEF REGISTRAR OF DEEDS
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