



Understanding Law Matters

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AMENDMENT OF REGULATION 68 (LOST DEED APPLICATIONS)

Due to an increase in fraudulent transactions involving immovable property it was identified that a need has arisen for stricter procedures to be adopted in respect of the issuing of copies of lost Title Deeds as provided for in Regulation 68 of the Act.

The original amendments proposed to deal with this issue were as follows:

- By the amendment of Regulation 68(a)(1), so as to provide that any affidavit as contemplated in this section must be attested by a Notary Public, and no longer by a Commissioner of Oaths as had previously been the case;
- By the insertion of Regulation 68(1E)(a) to (c), to provide *inter alia* for:
 - the publication of the notice of intention to apply for a certified copy of the lost Title Deed in the Government Gazette;
 - a procedure whereby copies of requested Title Deeds were to be open for inspection in the Deeds Registry for a period of two weeks after date of publication of the notice, during which period any interested persons could object to the issue of the copy.
- By the insertion of Regulation 68(11), so as to provide that the notification of the intention to apply for the cancellation of a Bond be published in the Government Gazette.

Whilst it was originally envisaged that the above amendments were to be effective from 25 February 2019, the original amendments as set out above have again been changed as a result of the nature and/or impact of the proposed amendments. The new amendments are now as follows:

- That the proposed amendment to Regulation 68(1)(a) regarding the attestation of affidavits before a Notary Public be done away with, on the basis that this amendment is impractical and has the potential to cause undue hardship to the public;

- That the proposed Regulation 68(1E)(a) be amended so as to provide for publication of the intention to apply for a certified copy of the lost Title Deed in a newspaper circulating in the area in which the property is situated, and no longer in the Government Gazette (this being on the basis that Government Gazettes are not widely read, thereby defeating the purpose of the amendment in the first place); and
- That the amendment of Regulation 68(10), by making reference to Regulation 68(1E), was an oversight. The intention was for the notification of the intention to apply for a certified copy of the bond be published, and **NOT** notification of the intention to cancel the bond itself.

In view of the above, the Deeds Registries Regulations Board has resolved to suspend the implementation of the amendments to Regulation 68, as referred to above, until further notice. Our offices will continue to monitor the situation and to keep all of our clients updated.

By David Campbell

Yours Faithfully

A handwritten signature in black ink, appearing to be 'B. Forrest', with a long horizontal stroke underneath.

Bruce Forrest

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