

DEEDS REGISTRY (AMENDMENT) ACT, 2024

No. 11



of 2024

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 of Cap 33:02
3. Amendment of section 5 of the Act
4. Amendment of section 51 of the Act
5. Substitution of section 52 of the Act
6. Substitution of section 59 of the Act
7. Substitution of section 77 of the Act
8. Deletion of section 78 of the Act
9. Deletion of section 79 of the Act

An Act to amend the Deeds Registry Act.

Date of Assent:

Date of Commencement:

ENACTED by the Parliament of Botswana.

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| <p>1. This Act may be cited as the Deeds Registry (Amendment) Act, 2024, and shall come into operation on such date as the Minister may, by Order published in the <i>Gazette</i>, appoint.</p> | <p>Short title and commencement</p> |
| <p>2. The Deeds Registry Act (hereinafter referred to as "the Act") is amended in section 2 by inserting in its correct alphabetical order, the following new definition —
"security interest" has the same meaning assigned to it under the Movable Property (Security Interests) Act."</p> | <p>Amendment of section 2 of Cap. 33:02</p> <p>Act No. 5 of 2022</p> |
| <p>3. Section 5 of the Act is amended by —
(a) substituting for paragraph (h), the following new paragraph —
"(h) register waivers of preference in respect of registered mortgage bonds in favour of other bonds, whether registered or about to be registered,"; and
(b) deleting paragraphs (j) and (k).</p> | <p>Amendment of section 5 of the Act</p> |
| <p>4. Section 51 of the Act is amended by substituting for subsection (1), the following new subsection —
"(1) Except as provided in any other law, the Registrar shall not attest any mortgage bond which contains a clause, purporting to bind all immovable property of the debtor."</p> | <p>Amendment of section 51 of the Act</p> |

Substitution
of section 52
of the Act

5. The Act is amended by substituting for section 52, the following new section —

^{“Passing of bond in favour of agent} 52. (1) A mortgage bond shall not be passed in favour of any person who is an agent of a principal.

(2) Notwithstanding the provisions of subsection (1), a notarial bond in movable property may be passed in favour of a debtor acting on behalf of another person in terms of the provisions of the Movable Property (Security Interests) Act.”.

Substitution of
section 59 of
the Act

6. The Act is amended by, substituting for section 59, the following new section —

^{“Registration of notarial bonds} 59. A security interest in movable property, including a notarial bond, shall be registered in terms of the provisions of the Movable Property (Security Interests) Act.”.

Substitution of
section 77 of
the Act

7. The Act is amended by substituting for section 77, the following new section —

^{“Hypothecation of leases and sub-leases} 77. (1) A hypothecation of a lease or sub-lease shall, if the lease or sub-lease is for immovable property, be effected by means of a mortgage bond, and shall be registered in the deeds registry.

(2) A hypothecation of a lease or sub-lease shall, if the lease or sub-lease is for movable property, be effected by means of a notarial bond, and shall be registered in the Collateral Registry Office in terms of the Movable Property (Security Interests) Act.”.

Deletion of
section 78
of the Act

8. The Act is amended by deleting section 78.

Deletion of
section 79 of
the Act

9. The Act is amended by deleting section 79.

PASSED by the National Assembly this 25th day of July, 2024.

BARBARA N. DITHAPO,
Clerk of the National Assembly.