

HIGH COMMISSIONER'S NOTICE No. 111 of 1932.

It is hereby notified for general information that His Excellency the High Commissioner, under the powers in him vested by sections *three, one hundred and seven and one hundred and ten* of the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932, has been pleased to make regulations and prescribe forms and fees as set out in the sub-joined Schedule for the registration of mining titles and rights as by the said Proclamation are required to be registered by the Registrar of Deeds.

By Command of His Excellency  
the High Commissioner.

SHIRLEY EALES,  
Acting Imperial Secretary.

High Commissioner's Office,  
Pretoria, 12th August, 1932.

SCHEDULE.

REGULATIONS.

In these regulations, unless inconsistent with the context—

“ Proclamation ” means the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932, or any amendment thereof;

“ Registrar ” means the Registrar of Deeds appointed for the Protectorate by the High Commissioner;

“ mining title ” means—

(a) claims for which a certificate of registration has been issued by the Registrar;

(b) mineral concessions (whether granted previously or subsequently to the Proclamation);

(c) Crown grants duly registered as required by the Proclamation;

and any other right to mine which may be granted under any amendment to the Proclamation;

“ deed ” shall include any document proper for registration by the Registrar;

“ block ” as applied to claims means an area of coterminous claims included in one certificate of registration.

1. It shall be the duty of the Registrar—

(a) to take charge of and preserve all records, documents and diagrams relating to mineral rights and to any mining title granted under any previous law;

(b) to file and preserve for such period as may be requisite or necessary signed duplicates of certificates of registration of whatever kind issued by him relating to claims and mining sites, to keep registers for recording such issues, and to keep such other registers as may be requisite or necessary for the performance of his duties;

- (c) to take charge of and preserve duplicates of all deeds and documents of title proper for registration under the Proclamation, and all documents, sketch plans and diagrams incidental to such registration or to the issue of the certificates of registration referred to in the preceding sub-section;
- (d) to register mortgage bonds specially hypothecating rights to minerals, mining titles, and water rights. No such bond shall be registered unless and until all moneys due to the Government in respect of the specially hypothecated properties have been paid;
- (e) to register cessions of registered bonds referred to under sub-section (d) and to register against such bonds any deed duly witnessed by which the conditions of the bond or rate of interest payable thereon are varied;
- (f) to cancel any bond registered in terms of sub-section (d) and release from the operation of such bond the whole or any part of the property thereby specially hypothecated;
- (g) to register notarial cessions of any right to minerals, mineral concessions or Crown grants and to register against any mining title any servitude or encumbrance created by notarial deed or order of court;
- (h) upon the registration of any deed or the issue by him of any kind of certificate of registration relating to claims or mining sites to make all such endorsements on any registered title or other documents as may be necessary to give effect to such registration;
- (i) to keep a register of all interdicts, attachments, or orders of court served on him effecting the transfer of any mining title, and all notices relating to estates furnished to him by the Registrar of the Special Court or of the Court of Resident Commissioner;
- (j) to give due notice to Mining Commissioners of all registrations affecting mining titles situate in their respective Districts;
- (k) to register powers of attorney authorizing the continuous performance of any one or more acts proper for registration under the Proclamation;
- (l) generally, to carry out the objects of the Proclamation and these regulations.

2. Upon the written application of any person who has transferred land subject to a reservation in favour of the applicant of rights to minerals thereon the Registrar shall, if there be produced to him the title deeds under which the land is held and where necessary a diagram showing the area affected by the rights to minerals so reserved, issue a certificate of rights to minerals as near as practicable in the prescribed form, and such certificate shall constitute the title to the said rights to minerals.

3. (1) Applications for the amalgamation of blocks of claims contiguous to each other belonging to not more than four persons and of not more than 2,000 claims in the aggregate may be made in writing to the Mining Commissioner, upon whose recommendation the Registrar shall issue in the prescribed form and on payment of the prescribed fee a certificate evidencing such amalgamation, but no transfer, mortgage or other registrable transaction affecting any amalgamated block of claims shall be registered without the production of such certificate or a certified copy thereof issued by the Registrar in terms of section 4 (c) of these regulations.

(2) If any of the claims required to be amalgamated are subject to mortgage bond or other encumbrance no such amalgamation shall be effected unless and until such mortgage or encumbrance shall have been cancelled or removed.

4. The Registrar shall have power—

- (a) in connection with the registration of mining titles or the registration of transactions affecting such to require proof upon oath or solemn declaration or other supporting evidence of any fact necessary to be established;
- (b) whenever in consequence of an error in any document whether in the name or in the description of any person or property therein mentioned it is found necessary to amend that document, to amend the error subject to the production of the consent in writing of every person interested; provided that if the error is common to two or more interdependent documents, both or all those documents shall be amended; provided further that if any such interested person refuse to consent to the amendment, the same shall not be made except upon an order of court;
- (c) to issue copies of deeds and documents registered in his office in lieu of originals which have been lost, destroyed or so defaced or mutilated as to be illegible or unserviceable. The procedure for obtaining such copies shall be as set out in section *twenty-four* of the Proclamation. Copies of deeds or documents issued for information only or for judicial purposes shall be marked by the Registrar "*Issued for information only*" or "*Issued for judicial purposes*" as the case may be.

Copies for judicial purposes shall be issued only on the written application of an attorney or party to a legal proceeding.

Certified copies of deeds required for purposes other than to serve in lieu of lost originals may be issued by the Registrar without publication in the *Gazette*.

5. No transfer, lease or cession thereof or other document affecting mining title shall be registered unless and until all moneys due to the Government in respect of such mining title shall have been paid.

6. No transfer of claims shall be cancelled by the Registrar except upon an order of court.

7. If any person registered as the holder of a mining title or the registered holder of a mortgage bond hypothecating such title changes his name the Registrar may upon the written application to him by that person and upon being satisfied that there has been no change of person in law, alter that name in the registered deed or document evidencing such title or mortgage bond and in the appropriate registers so as to accord with the name which such person then bears. The word "person" used in this regulation shall bear the same meaning as is given to it in the Proclamation.

8. The Master of the Court of Resident Commissioner shall notify the Registrar of the names and addresses of all insolvents who from the records of their insolvency appear as the holders of mining title, as also the date of the sequestration order and subsequent rehabilitation.

9. No transfer and no cession of a lease of a mining title shall be registered if such mining title or lease is specially hypothecated under a registered mortgage bond until such mortgage bond shall have been duly cancelled or until such mining title or lease shall have been released from the operation thereof by the consent of the bondholder; but this regulation shall not apply to cases in which such mining title or lease is transferred—

- (a) in execution of the judgment of any competent court by the officer appointed by law or by such court;
- (b) by the liquidator of a company declared by a court to be insolvent or by the trustee of an insolvent estate to which such mining title belongs.

10. No mortgage bond hypothecating any mining title shall be of force or effect for the purpose of giving preference or priority to the payment of any advances, debts or demands made or accruing after the date of such bond unless

- (a) it is expressly stipulated therein that it is intended to cover or secure future debts, advances or demands generally, or some particular debt, advance, or demand in the bond described;
- (b) a sum is fixed in the bond as a sum beyond which future debts, advances or demands shall not be deemed to be covered or secured by the hypothecation created by the bond.

11. Mortgage bonds must contain a clear description of the mining title mortgaged and the registered number and date of the transfer or other documents under which such title is held.

12. A bond shall not be registered in favour of any person as the agent of an undisclosed principal.

13. Every consent to cancellation of a bond and to the release of any property from the operation of a bond, and every cession of a bond shall be endorsed upon or annexed to such bond by the bondholder or his duly authorized agent. The Registrar shall require and file of record a duplicate of such consent or cession the signatures to which shall be attested by a magistrate, notary public or justice of the peace. Where such consent or cession is signed by an agent, such agent shall lodge with the Registrar the power of attorney authorizing him to act.

14. Consent to the cancellation of a bond in favour of one or more persons trading in partnership shall be signed by all the partners and bear the partnership signature.

15. Where a balance owing on a bond is ceded the part payment must be written off in the bond register before the cession is registered.

16. Mortgage bonds affecting claims or other mining title and water rights shall be lodged in duplicate and shall bear an endorsement signed by a duly admitted conveyancer authorized to practise in the Bechuanaland Protectorate who prepared the bond, that it was prepared by him and no such bond shall be accepted for registration which does not bear such endorsement.

17. Claims which are not specially registered may not be mortgaged unless the Registrar be furnished with a written statement signed by the mortgagee that he is aware that the claims are not so registered.

18. Transfers of claims effected under the provisions of section *twenty-one* of the Proclamation shall be lodged in duplicate and shall be signed by the parties thereto or their agents duly authorized by power of attorney in the presence of the Registrar. Such transfers shall be as near as is material in the prescribed forms and when signed by the agent of the transferor or transferee it shall be necessary, except as provided in section 20 of these regulations, for the Registrar to file the original of the power of attorney under which such agent acts.

19. Any person wishing to pass, cede, or cancel a deed or to perform any act of a similar nature on behalf of any person must lodge the original power of attorney under which he claims to act and such power of attorney shall be filed of record by the Registrar.

20. If an original power of attorney is filed of record in any deeds registry of the Union of South Africa, Southern Rhodesia, or Northern Rhodesia, or in the office of the Master of the Court of Resident Commissioner of the Bechuanaland Protectorate, the Registrar shall accept a copy of such original power certified under the hand and seal of the Registrar of such deeds registry or of the said master, as the case may be; provided that if it be sought to act upon any such certified copy it shall be necessary to lodge with the Registrar a letter

signed by the official issuing such certified copy, bearing a date not more than fourteen days prior to its lodgment, intimating that the cancellation of such power of attorney has not been notified to him.

21. (1) Powers of attorney must specify the date as well as the place of execution, the latter being described sufficiently to enable the Registrar to determine its geographical situation.

(2) Powers of attorney shall clearly and sufficiently describe the mining title or right to be transferred, mortgaged or otherwise dealt with.

22. No transfer lease or mortgage bond affecting claims in respect of which mining sites have been granted shall be registered unless there be produced to the Registrar for endorsement of such transfer lease or mortgage the certificate of registration of such mining sites or certified copies thereof obtained as provided in section 4 (c) of these regulations.

23. No certificate of registration shall be issued by the Registrar under the provisions of sections *sixteen* and *twenty-six* (2) of the Proclamation unless there be produced to him the current licence receipt in respect of the claims for which such certificate is required to be issued.

24. No certificate of registration shall be issued by the Registrar in terms of section *forty-eight* (3) of the Proclamation in respect of any mining site unless there be produced to him the current rental receipt for the site as well as the certificate of registration of the claims to which the site is attached.

25. Before any amalgamation, transfer or mortgage of claims may be effected it shall be necessary for a diagram of claims as described in section *thirteen* of the Proclamation to be lodged with the Registrar unless the Mining Commissioner certifies in writing that such diagram is unnecessary.

26. Deeds of transfer of claims in favour of a partnership must contain the full names of the partners constituting the partnership, and transfer of claims registered in the name of a partnership must in addition to bearing the partnership signature be signed by each of the partners.

27. (1) In the event of a portion of the ground held under mining title being transferred or leased or portion only of the claims represented on the diagram or sketch plan being transferred or leased, it shall be necessary for the registration of such transfer or lease that a diagram of the portion of the ground or claims so dealt with to be annexed to each copy of the transfer or deed of lease, unless the Mining Commissioner certifies in writing that such diagram is unnecessary.

(2) It shall also be necessary before the registration of such transfer or lease may be effected for the portion transferred or leased to be deducted from the original diagram or sketch plan.

28. (1) Where mining title is ceded or transferred in pursuance of the provisions of a will, codicil or other testamentary disposition the Registrar may require a certified copy of such will, codicil or disposition and letters of administration to be lodged with him.

(2) The Registrar may also require any executor or administrator who seeks to cede or transfer any mining title belonging to an estate under his administration to lodge a certified copy of the will, codicil or other testamentary instrument under which he acts.

29. Deeds executed on behalf of or in favour of any person or persons who are minors must state that such person or persons are minors.

30. (1) A deed executed by or in favour of a woman must state whether she is a spinster, married, or a widow, and in the case of a married woman must contain the full name of her husband and set forth whether she is married to him in or out of community of property.

(2) The Registrar may require proof of a woman's status as mentioned in a deed or power of attorney.



Form No. 23.

TRANSFER OF CLAIMS No.....

I, the undersigned Transferor.....hereby  
cede and transfer unto and on behalf of.....  
the undersigned Transferee, \*.....the  
following claims registered under Block No. ....  
Claims Nos. ....situate in the Mining District  
of.....as held by me under:—

*Licence Receipt No.*.....dated.....19.....

*Certificate of Registration No.*.....

*Certificate of Special Registration No.*.....

*Certificate of Amalgamation No.*.....

Sketch Plan } No.....  
Diagram }

And I acknowledge that the consideration payable in respect  
of this transfer amounts to £.....for the satisfaction of  
which due provision has been made.

And I, the undersigned Transferee.....  
do hereby accept the above transfer.

Signature of Transferor.....

Signature of Transferee.....

Signed by the said Transferor and Transferee in my presence  
this.....day of.....19.....

.....  
Registrar of Deeds.

\* If an undivided interest only is transferred quote  
fractional part of the whole.

Form No. 24.

TRANSFER OF CLAIM No.....

(By virtue of a power of attorney.)

I, the undersigned.....as the  
Agent of.....(hereinafter referred  
to as the Transferor) under Power of Attorney dated.....  
.....executed at.....and granted  
to me by the said Transferor do hereby cede and transfer  
unto and on behalf of.....the undersigned  
Transferee, \*.....the following claims  
registered under *Block No.*..... Claims Nos.....situate  
in the Mining District of.....as held by the  
Transferor under:—

*Licence Receipt No.*.....dated.....19.....

*Certificate of Registration No.*.....

*Certificate of Special Registration No.*.....

*Certificate of Amalgamation No.*.....

Sketch Plan } No.....  
Diagram }

And I acknowledge that the consideration payable in respect of this transfer amounts to £.....for the satisfaction of which due provision has been made.

And I, the undersigned Transferee.....do hereby accept the above transfer.

Signature of Agent of Transferor.....

Signature of Transferee.....

Signed by the Agent of the Transferor and the Transferee in my presence this.....day of.....19.....

.....  
Registrar of Deeds.

\* If an undivided interest only is transferred quote fractional part of the whole.

N.B.—This form to be observed, with necessary alterations, when transfer is signed by an Agent of the Transferee or by Agents of both Transferor and Transferee.

Form No. 25.

CERTIFICATE OF RIGHTS TO MINERALS.

(Issued under Section 2 of the Regulations published under High Commissioner's Notice No. 111 of 1932.)

Whereas.....is the holder of rights to minerals in and upon the undermentioned land under and by virtue of (describe the title conferring title to rights to minerals).

Now therefore I, .....Registrar of Deeds do hereby certify that the said..... is the registered holder of the rights to minerals in and upon (describe the land giving particulars of the Sketch Plan or diagram defining the same) subject to the following conditions (here set forth any rights ancillary to the rights to minerals).

Thus done and executed at my office at..... this.....day of.....19.....

SEAL.

.....  
Registrar of Deeds.

Form No. 26.

Form of Notice for publication in the matter of applications for certified copies of Deeds to replace lost originals.

LOST.

(Describe the Deed or Document.)

Notice is hereby given that I intend applying for a certified copy of (give a full description of the deed or document including the names of the parties thereto, in whose favour made and particulars of the property to which it relates, etc.); and all persons having objection to the issue of such copy are hereby required to lodge the same with the Registrar of Deeds for the Bechuanaland Protectorate within 31 days from the date of the publication of this notice.

Dated this.....day of.....19.....

**FEES.**

(Payable in Revenue stamps only.)

1. *For the Registration of:—*

(a) Crown grant issued under Section 35 of the Proclamation ... ..	£1 0 0
(b) Mineral Concession ... ..	1 0 0
(c) Certificate of rights to minerals ... ..	1 0 0
(d) Certificate of Amalgamation ... ..	1 0 0
(e) Mortgage Bond ... ..	1 0 0
(f) Cession or cancellation of a Mortgage Bond or release of property from the operation of such bond ... ..	0 10 0
(g) Deed by which the terms or conditions of a Mortgage Bond are varied ... ..	0 10 0
(h) Noting of part payment under a Mortgage Bond ... ..	0 10 0
(i) Notarial cession of a Crown Grant, Mineral concession or rights to Minerals ... ..	0 10 0
(j) Notarial servitude affecting any Mining title as defined in the Regulations ... ..	0 10 0
(k) Notarial lease of any claims or cession of such lease ... ..	0 10 0
(l) Any Power of Attorney or substitution thereunder ... ..	0 5 0
(m) Change of name effected under Section 7 of the Regulations ... ..	0 5 0
(n) Amendment to any deed whether in the name of a person or property described therein effected under Section 4 (b) of the Regulations	0 5 0
(o) For any endorsement required to be made by the Registrar and for the registration of any deed for which no fee is provided in the foregoing or in the Proclamation ... ..	0 5 0

2. *Searches and Inspections.*

- (1) For full information furnished by the Registrar regarding Mining Title or Mining Site registered in the name of one person—For every  $\frac{1}{2}$  hour or part thereof occupied in making such search 5s. but not exceeding £3.
- (2) For each inspection of any one Register not requiring the assistance of the Registrar—For each folio inspected ... .. 0 2 6
- (3) For information regarding Mortgage Bonds—For each Bond ... .. 0 5 0
- (4) For information regarding any Contract—For each Contract ... .. 0 5 0
- (5) For Search in the Index to Mining Titles—For each name searched ... .. 0 2 6
- (6) For any search not provided for in the foregoing—5s. for each  $\frac{1}{2}$  hour or part thereof occupied in making the search.

*N.B.—Provided no fee for search or inspection shall be payable by any Conveyancer admitted to practice in the Bechuanaland Protectorate which is required to be made in connection with any transaction to be lodged by him for registration.*

3. *Copies of documents for which no fee is provided  
in the Proclamation.*

- (a) For the first 100 words or part thereof ... 0 10 0
- (b) For every additional 100 words or part  
thereof ... .. 0 2 6
- (c) For the certification by the Registrar of any  
copy of a Deed issued by him ... .. 0 2 6
- (d) For the issue by the Mining Commissioner of  
certified copies of claim licence receipts or  
receipts for rentals payable on Mining Sites 0 2 6