

## CHAPTER 20:20

# TITLES REGISTRATION AND DERELICT LANDS ACT

*Acts 28/1881, 24/1887, 39/1973 (ss. 23 and 52), 29/1981; R.G.N. 64/1895.*

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## **AN ACT to provide for the registration of title in certain cases, and for the disposal of certain derelict lands.**

[Date of commencement: 10th June, 1891.]

### **1 Short title**

This Act may be cited as the Titles Registration and Derelict Lands Act [*Chapter 20:20*].

### **2 Interpretation of terms**

In this Act—

“immovable property” means, in addition to all property included under the ordinary acceptance of the term—

- (a) all rights to farms for which titles have not been issued, whether such farms have been located or not;
- (b) all stands in townships held under certificate of occupation;
- (c) all claims pegged out under any mining law or regulations in force on the 31st July, 1895, or thereafter put in force;
- (d) all grants of Matabeleland claim rights issued to members of the Expedition to Matabeleland and others in consideration of certain services, whether such claims have been pegged out or not;

“Registrar” means the Registrar of Deeds, and, in the case of immovable property the transfer of which is not registered by the Registrar of Deeds, the proper officer appointed for the registration of the transfer of such property.

### **3 Persons having acquired title to derelict lands may apply to High Court to order registration of such title**

Any person who, by prescription or by virtue of any contract or transaction or in any other manner, has acquired the just and lawful right to the ownership of any immovable property in Zimbabwe registered in the name of any other person and cannot procure the registration of such property in his name in the land register, the register of occupation stands or the register of claims, as the case may be, in the manner and according to the forms for that purpose by law

provided, by reason of the death, mental incapacity, insolvency or absence from Zimbabwe of the person in whose name such property stands registered as aforesaid or of any person or persons through or from whom such right has been mediately or immediately derived or owing to any other cause may apply to the High Court to order the registration of the title to such property in his name in the land register, the register of occupation stands or the register of claims, as the case may be, of Zimbabwe.

#### **4 Persons entitled to expropriate land and unable to obtain title in ordinary way may apply to High Court**

As often as by any law in force in Zimbabwe any person has acquired the right to any immovable property by expropriation and is entitled to obtain registration of title to such property, but cannot from any cause obtain such registration in the manner and according to the forms by law provided, such person may apply to the High Court to order registration of title.

#### **5 Persons having claim on derelict land may apply to High Court for relief**

Whenever there remains due and unpaid for the space of five years any rate or assessment payable to any municipality or other public body upon any immovable property in Zimbabwe, and such property is abandoned, deserted and left derelict, and the owner thereof cannot be found, it shall be lawful for the person or body claiming such rate or assessment to apply to the High Court, stating the amount claimed to be due and the grounds for applying for relief under this Act.

#### **6 Applications to be filed and supported by affidavits**

Every applications to the High Court under this Act shall be lodged with the registrar of the High Court, and the allegations contained in such application shall be supported by affidavit and such documents in proof as the applicant may be able to adduce.

#### **7 Application to be laid before judge in chambers**

Every such application shall be laid before one of the judges in chambers, who shall make such order thereon as to him seems fit, and any such judge may order that any matter arising upon any such petition shall be argued before and determined by the High Court.

#### **8 Provisional order to be granted by High Court or judge**

Upon considering any application for registration of title, the High Court or judge may, if such Court or judge considers it expedient to do so, grant an order setting forth the description of the property mentioned in such petition and calling upon all persons having or pretending to have any right or title to such property to appear and establish their claims to the same upon some day to be named in the rule, or be forever barred therefrom, and may direct the mode of service or publication of such order.

#### **9 Power of High Court or judge to order registration of title as prayed**

Upon considering any such application for registration of title, the High Court or judge may, and upon the return of any such rule granted as aforesaid, and no cause being shown to the contrary, the High Court may order the Registrar to register the property mentioned in such order as the property of the person therein named, subject to such terms and conditions as may be therein mentioned.

#### **10 In case of objection, High Court or judge may direct trial of issues without pleadings**

If any person appears to show cause against any order so granted as in section *nine* mentioned, the Court may, if it sees fit to do so, and without the issue of any summons, require any issue of fact to be tried upon pleadings or may make such order as will in the most speedy and inexpensive manner determine the matter in controversy.

#### **11 Judge or High Court may order property to be attached or sold to satisfy claims**

Upon considering any application for the sale of immovable property abandoned and left derelict to satisfy any such claim as is referred to in section *five*, the judge before whom such application is laid or the High Court, should such judge, by order granted, refer such application to the High Court, may order that the property mentioned in the application be attached and sold to satisfy such claims as aforesaid thereon.

#### **12 Subject to such order, conventional mortgages not to be affected**

Subject to the terms of any such order for registration of title as aforesaid, any conventional hypothecation over any immovable property so registered which is in existence at the date of such registration shall attach to and upon the said property precisely as it then exists, and all usual and proper entries and endorsements upon or in regard to any deed of transfer issued by the Registrar in obedience to such order shall be made in the Deeds Registry or register of claims before such deed is delivered to the person entitled thereto.

#### **13 Effect of registration of title under this Act**

Every registration of immovable property made in favour of any person in pursuance of any order granted under this Act shall have the effect of vesting such person with a title and right to such property which shall and shall not,

respectively, be liable to be annulled, set aside, limited and affected on every ground and by reason of every and any cause, matter or thing by reason of which the title and right of such person to such property would or would not have been liable to be annulled, set aside, limited or affected if such property had been regularly transferred to and in favour of such person and to and in favour successively of every person through or from whom his right was derived or acquired.

#### **14 Liability of persons to whom title given under this Act to pay taxes and duties incurred: previous owner to remain personally liable**

When any order has been made under this Act directing the Registrar to register any property in the name of any person, such person shall be liable to pay such taxes, duties or stamps in respect of such registration as he would have been liable to pay if such property had been transferred to him directly from the person last registered as the proprietor thereof in due form of law, and shall not be liable or required to pay, nor shall the registration directed to be made in his favour be suspended or stayed by reason of the non-payment of any tax, duty or fine which the person last registered as such proprietor or any other person through or from whom he has mediately or immediately derived his right to such property may have become liable for or incurred, unless he has by some contract or agreement specially bound himself to pay such tax, duty or fine:

Provided that any person who may have become liable for or incurred such tax, duty or fine shall be and continue personally liable for the same, notwithstanding that such property, by virtue of such order, has been registered as the property of the person therein named.

#### **15 Registrar to comply with order made under this Act**

(1) Upon production to the Registrar of any order granted under this Act and of a certificate of the proper officer of the due payment of the transfer duty, if any, which the person named in the order is liable to pay, the Registrar shall register the immovable property, as by the said order may be directed, in the form as nearly as is material set forth in the First Schedule, subject to such conditions and stipulations as would have been contained in a deed of transfer passed in due and customary form to such person from the person last registered as the proprietor of such property, and to such other conditions as the said order may direct.

(2) When the property to be transferred consists of either mining claims or rights to such claims, subsection (1) shall apply, except that the certificate of transfer shall be as nearly as circumstances will allow in the form set forth in the Second Schedule in the case of pegged claims, and in the form set forth in the Third Schedule in the case of Matabeleland claim rights.

#### **16 Registrar of High Court to issue attachment under section 11 and consequences thereof**

(1) Whenever the High Court or a judge has ordered the attachment and sale of any derelict property under section *eleven*, the registrar of the High Court shall issue a writ for the attachment of the property mentioned in such order.

(2) The Sheriff or his deputy shall attach the property by the writ directed to be attached by giving notice thereof to the Registrar, and upon such notice being lodged with the Registrar the said property shall be deemed to be duly attached and no other proceedings shall be necessary, anything in any rule of court to the contrary notwithstanding.

(3) Upon such attachment being made as aforesaid the like proceedings shall be had and taken as are by the rules of court provided in the case of immovable property attached in execution of any judgment of the High Court.

(4) It shall be lawful for any person or body other than the applicant at whose instance the property has been attached to prove by affidavit to the Sheriff any claim for rates due upon or in respect of the same property.

(5) If the amount realized by the sale of the property attached is insufficient, after the payment of the hypothecations on or affecting the same, if any, to pay the claims of the applicant and others proved as aforesaid, the costs allowed to the applicant shall first be paid thereout and the balance rateably divided between or amongst the applicant and the said claimants.

#### **17 Surplus of proceeds after payment of all claims to be paid into Guardian's Fund**

Any sum of money which the High Court or judge making any order under this Act finds to be due by the person in whose favour such order is made to any other person, and any sum of money which remains in the hands of the Sheriff as the proceeds of any immovable property attached and sold under any such order, after payment of all claims allowed against such proceeds and all costs allowed and ordered to be paid thereout, shall, if the person to whom such money is payable is absent from Zimbabwe, unknown or a minor, be paid into the Guardian's Fund to the credit of such person or persons as may be entitled to the same or otherwise as may be ordered by the High Court or judge.

#### **18 Costs of order under this Act to be in discretion of High Court or judge**

The High Court or judge, as the case may be, making any order under this Act may make such order as to costs, and to and by whom the same shall be paid, as to the Court or judge seems meet.

## 19 High Court may make rules

The judges of the High Court, acting in pursuance of any Act for the time being regulating the making of general rules of court, may make such rules concerning the form and mode of proceeding under this Act by the High Court or a judge in chambers as to such judges seem meet.

### FIRST SCHEDULE (Section 15)

#### DEED OF TRANSFER

Know all men whom it may concern,

That in obedience to an order of the High Court of Zimbabwe [or of the Honourable Mr. Justice in chambers, as the case may be] under the provisions of the Titles Registration and Derelict Lands Act [*Chapter 20:20*], I, the Registrar of Deeds, do hereby cede and transfer in full and free property to and on behalf of , his heirs, executors, administrators, and assigns certain (here describe the property) and that by virtue of these presents the said , his heirs, executors, administrators and assigns now is and henceforth shall be entitled thereto, conformably to local custom, Government however reserving its rights.

In witness whereof I, the said Registrar, have subscribed to these presents and have caused the seal of office to be affixed thereto.

Thus done and executed at the office of the Registrar of Deeds in Harare, on the day of the month of in the year of our Lord

A.B., Registrar of Deeds.

### SECOND SCHEDULE (Section 15)

#### CERTIFICATE OF TRANSFER

No.

This is to certify that in obedience to an order of High Court of Zimbabwe (or of the Honourable Mr. Justice in chambers, as the case may be) under the provisions of the Titles Registration and Derelict Lands Act [*Chapter 20:20*], dated in claims registered under Certificate No. and situate in the District have this day been registered in the name of

of

Office of the Registrar of Claims, 19 .

Registrar of Claims.

### THIRD SCHEDULE (Section 15)

#### CERTIFICATE OF TRANSFER OF MATABELELAND CLAIM RIGHTS

This is to certify that in obedience to an order of High Court of Zimbabwe (or of the Honourable Mr. Justice in chambers, as the case may be) under the provisions of the Titles Registration and Derelict Lands Act [*Chapter 20:20*], dated , the right to peg out and register claims has this day been transferred to

of

Office of the Registrar of Claims, 19 .

Registrar of Claims.