



DEEDS OFFICE OPENING AND RATES CLEARANCE CERTIFICATES

On 29 April 2020 further regulations were issued in terms of the Disaster Management Act, No. 57 of 2002. In terms of such regulations, the various Deeds Offices are deemed to be essential government and administration services which may operate during level 4 of the National Lockdown.

Rates clearance certificates are valid for 60 days from date of issue. Given the extended lockdown, the rates clearance certificates in many matters that were lodged prior to the commencement of the lockdown may have or are about to expire. One of the questions currently being asked is once the Deeds Offices are fully operational and open to conveyancers, what happens if the rates certificate has expired during lockdown?

Section 118(1) of the Local Government: Municipal Systems Act, No.32 of 2000, (the "Act") provides the following: -

118. Restraint on transfer of property.—(1) A registrar of deeds may not register the transfer of property except on production to that registrar of deeds of a prescribed certificate—

(a)
issued by the municipality or municipalities in which that property is situated; and
(b)
which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.

(1A) A prescribed certificate issued by a municipality in terms of [subsection \(1\)](#) is valid for a period of 60 days from the date it has been issued.

In terms of section 118 (1), the registrar of deeds may not allow registration of transfer of a property unless the prescribed rates certificate is provided. If a rates certificate has expired the registrar of deeds does not have the power or discretion to override the Act. Therefore, new rates figures will need to be obtained, paid and a new certificate obtained. There is talk that legislation may be considered to change the situation but given the time periods involved this is unlikely.

Currently, a few of the Municipalities are issuing figures electronically. However, if there are issues on the account these figures are being delayed. In terms of the regulations, Municipalities may operate for essential municipal services. Many expect this to include issuing of rates figures and certificates given that the Deeds Offices are able to operate as are professionals, such as attorneys, in support of Deeds Offices. To what extent and when the various Municipalities will operate will be determined by them and our offices are engaging with the various Municipalities directly in respect of the same.

This newsflash has been prepared for information purposes only and does not constitute legal advice, or a legal opinion, the practical application of the provisions of this newsflash will vary depending on the facts of each case.

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