

Registration Process

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Offer to purchase

The registration of transfer is triggered by the acceptance of an offer to purchase by the seller. The Offer to Purchase should contain all the essential details regarding the Purchaser, the Seller, the property description and the payment of the purchase price. The said document should contain particulars of the existing bondholder over the property.

Bond application

Almost immediately after the acceptance of the Offer to Purchase an application for the finance of the purchase price must be made by the Purchaser or his representative to a financial institution.

Instruction to the transferring attorney

In order to activate the registration of the transfer process a copy of the signed Offer to Purchase should be handed over to the transferring attorney upon acceptance thereof by the Seller.

Cancellation figures

After opening the file by the Transfer Attorney, last mentioned immediately requests cancellation figures from the Seller's existing bondholder. Upon the receipt of the said request the existing bondholder will supply the outstanding amount required for the cancellation of the bond and simultaneously instruct the attorneys to attend to the cancellation thereof. At the same time the existing bondholder will also forward the Title Deed which was kept by them as additional security to the cancellation attorney.

Clearance certificate

Simultaneously the transfer attorney will apply for a Rates Clearance Certificate from the local authorities/Body Corporate. Once last mentioned has calculated the outstanding balances, the transferring attorney will be advised accordingly and must then make payment thereof in order to obtain the necessary Rates Clearance Certificate. No transfer may be lodged with the Deed Office unless accompanied by the said Rates Clearance Certificate. Upon approval by the financial institution of the purchasers' finance an instruction will be forwarded to the attorney of their choice (usually the transferring attorneys) to attend to the registration of the necessary bond.

Transfer duty receipt

The transferring attorney submits an application for a Transfer Duty receipt from the Receiver of Revenue. No transfer may be lodged with the Deeds Office unless accompanied by the said Transfer Duty receipt. The attorneys attending to the registration of the bond immediately requests from the transferring attorney the draft Deed of Transfer.

This is necessary to obtain details regarding the title conditions, purchase price, dates of sales etc. (This is only done if the financial institution instructs an attorney other than the transferring attorney.) After instruction to register the bond has been given by the financial institution the transferring attorney may now proceed to draw all documents regarding the transfer and arrange for the signature thereof by both the Seller and the Purchaser.

Similarly the bond attorney upon receipt of the Draft Deed proceeds to draw all documents pertaining to the registration of the bond and has the same signed by the Purchaser. The bond attorney then issues the necessary guarantees in favor of the Seller and / or the existing bondholder of the Seller to procure the cancellation of the existing bond.

By this time the transferring attorney would already have received both the Clearance certificate as well as the Transfer duty receipt and will now be in a position to lodge the documents for registration in the Deeds Office.

Lodgement

The transferring attorney then contacts the bond attorney as well as the cancellation attorney in order to effect the simultaneous lodgment of the various deeds in the Deeds Office. The transferring attorney attends to the registration of transfer of the property from the name of the Seller to the Purchaser whilst the cancellation attorney attends to the cancellation of the existing bond of the Seller and the bond attorney on the other hand sees to the registration of the new bond to be registered over the property as security for the Purchasers' loan.

The set of three registrations is then submitted simultaneously in the Deeds Office and after being examined by the examiners in the Deeds Office, placed on preparation where the attorneys; both transfer and bond cancellation attorneys; attend to any notes made by the examiners in respect of the documents. This takes 10-14 working days.

After the documents where cleared by the examiners on prep, i.e. all the notes where attended to by the various attorneys, last mentioned are forwarded for registration the following day. Upon registration the attorneys involved attend to the following:

- Presents the guarantees for payment of the purchase price, which is then allocated towards the payment of the existing bond in the balance in favor of the Sellers, being the proceeds of the sale.

- Adjustment and apportionment of rates payments are made and the various parties debited or credited as the case may be.
- The local authority is advised of the registration.
- Agent's commission is paid to the estate agent.
- The transfer attorney then forwards the Title Deed to the Bond attorney/Bond holder who retains the same together with the registered bond document as secured.