

**REPUBLIEK VAN SUID-AFRIK**

**Vol. 482 Cape Town, August 15 Augustus 2005 No. 27897**  
**Kaapstad, 15 Augustus 2005**

**THE PRESIDENCY**

**No. 824 15 August 2005**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 11 of 2005: Minerals and Energy Laws Amendment Act, 2005.**

**DIE PRESIDENSIE**

**No. 824 15 Augustus 2005**

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

**No. 11 van 2005: Wysigingswet op Wette oor Minerale en Energie, 2005.**

Act No. 11, 2005 MINERALS AND ENERGY LAWS AMENDMENT ACT, 2005

**GENERAL EXPLANATORY NOTE:**

[                    ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

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*(English text signed by the President.)*  
*(Assented to 10 August 2005.)*

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# ACT

**To correct amendments made to the Deeds Registries Act, 1937, by the Mining Titles Registration Amendment Act, 2003, and the Mineral and Petroleum Resources Development Act, 2002, by substituting the Schedule to the Mining Titles Registration Amendment Act, 2003, and by repealing certain expressions in Schedule I to the Mineral and Petroleum Resources Development Act, 2002; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Substitution of Schedule to Act 24 of 2003**

1. The following Schedule is hereby substituted for the Schedule to the Mining Titles Registration Amendment Act, 2003:

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ] Woorde in vet druk tussen vierkantige hake dui skrapings uit  
bestaande verordenings aan.

\_\_\_\_\_ Woorde met 'n volstreep daaronder dui invoegings in bestaande  
verordenings aan.

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*(Engelse teks deur die President geteken.)  
(Goedgekeur op 10 Augustus 2005.)*

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# WET

Tot regstelling van wysigings wat deur die Wysigingswet op die Registrasie van Myntitels, 2003, en die "Mineral and Petroleum Resources Development Act, 2002," aan die Registrasie van Aktes Wet, 1937, aangebring is, deur die Bylae by die Wysigingswet op die Registrasie van Myntitels, 2003, te vervang en deur sekere uitdrukkings in Bylae I by die "Mineral and Petroleum Resources Development Act, 2002," te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika,  
soos volg:—

**Vervanging van Bylae by Wet 24 van 2003**

1. Die Bylae by die Wysigingswet op die Registrasie van Myntitels, 2003, word hierby deur die volgende Bylae vervang:

## "SCHEDULE

LAWS AMENDED  
(Section 53)

No. and year of Act	Short title	Extent of repeal or amendment	5
Act No. 47 of 1937	Deeds Registries Act, 1937	<p>1. The repeal of sections 3(1)(l), 3(1)(m), 3(1)(n), 3(1)(q), 17(5)(b), 26(1)bis, 44(3), 64(2)bis, 64(2)ter, 70 to 74ter, 84, 85 and 90(2)(b).</p> <p>2. The substitution for section 21 of the following section:</p> <p style="padding-left: 2em;"><b>“Transfer or cession from joint estate</b></p> <p style="padding-left: 2em;"><b>21.</b> In any deed of transfer or deed of cession lodged in a deeds registry and relating to <b>[land or rights to minerals which are assets]</b> an asset in a joint estate, the surviving spouse shall be joined in his or her personal capacity with the executor of the estate of the deceased spouse except—</p> <p style="padding-left: 2em;">(a) where the executor is dealing only with the share of the deceased spouse; or</p> <p style="padding-left: 2em;">(b) where the <b>[land or rights to minerals have]</b> asset has been sold to pay the debts of the joint estate; or</p> <p style="padding-left: 2em;">(c) where there has been a massing of the joint estate and the surviving spouse has adiated; or</p> <p style="padding-left: 2em;">(d) where such transfer or cession is in favour of the surviving spouse; or</p> <p style="padding-left: 2em;">(e) where the power of attorney to pass such transfer or cession[,] has been signed by the surviving spouse in the capacity of executor.”</p> <p>3. The amendment of section 28 by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1) If the share or shares owned by any of the parties to a partition appear from the title deeds of the land partitioned to be subject to a lease, personal servitude or other real right <b>[(excluding any rights to minerals)]</b>, the written consent of the holder thereof to the partition and allocation of the lease, servitude or other such real right, together with the deed, if any, by which the lease, servitude or real right is held, shall be produced to the registrar.”</p> <p>4. The amendment of section 32 by—</p> <p style="padding-left: 2em;">(a) the deletion in subsections (1), 2(a) and (4) of the expression “or right to minerals”, wherever it appears;</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>

WYSIGINGSWET OP WETTE OOR  
MINERALE EN ENERGIE, 2005

Wet No. 11, 2005

## "BYLAE

WETTE GEWYSIG  
(Artikel 53)

No. en jaar van Wet	Kort titel	Omvang van herroeping of wysiging	5
Wet No. 47 van 1937	Registrasie van Aktes Wet, 1937	<p>1. Die herroeping van artikels 3(1)(l), 3(1)(m), 3(1)(n), 3(1)(q), 17(5)(b), 26(1)bis, 44(3), 64(2)bis, 64(2)ter, 70 tot 74ter, 84, 85 en 90(2)(b).</p> <p>2. Die vervanging van artikel 21 deur die volgende artikel:</p> <p><b>"Transport of sessie vanuit gemeenskaplike boedel</b></p> <p>21. In 'n transportakte of akte van sessie by 'n registrasiekantoor ingedien [,] en wat betrekking het op <b>[grond of regte op minerale wat bates]</b> 'n bate in 'n gemeenskaplike boedel <b>[is]</b>, moet die langsewende gade in sy of haar persoonlike hoedanigheid by die eksekuteur van die boedel van die oorlede gade gevoeg word, behalwe—</p> <p>(a) waar die eksekuteur met slegs die oorlede gade se aandeel handel; of</p> <p>(b) waar die <b>[grond of regte op minerale]</b> bate verkoop is om die skulde van die gemeenskaplike boedel te vereffen; of</p> <p>(c) waar die gemeenskaplike boedel gekonsolideer is en die langsewende gade geadieer het; of</p> <p>(d) waar bedoelde transport of sessie ten gunste van die langsewende gade is; of</p> <p>(e) waar die prokurasie om bedoelde transport of sessie te gee, deur die langsewende gade in die hoedanigheid van eksekuteur geteken is."</p> <p>3. Die wysiging van artikel 28 deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>"(1) As die aandeel of aandeel wat aan een van die partye tot 'n verdeling behoort, blykens die titelbewyse van die verdeelde grond onderworpe is aan 'n huurkontrak, persoonlike serwituut of ander saaklike reg <b>[(uitgesonderd 'n reg op minerale)]</b>, moet die skriftelike toestemming van die besitter daarvan tot die verdeling en plaas aanwysing van die huurkontrak, serwituut of sodanige ander saaklike reg, met die akte (as een bestaan) <b>[kragtens welke]</b> waarkragtens die huur, serwituut of saaklike reg besit word, aan die registrateur voorgelê word."</p> <p>4. Die wysiging van artikel 32 deur—</p> <p>(a) die uitdrukking "of reg op minerale", waar dit ook al voorkom in subartikels (1), (2)(a) en (4), te skrap;</p>	<p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p> <p>65</p> <p>70</p>

## Act No. 11, 2005 MINERALS AND ENERGY LAWS AMENDMENT ACT, 2005

No. and year of Act	Short title	Extent of repeal or amendment
		<p>(b) the substitution for subsection (5) of the following subsection:  “(5) Immediately after any <b>right of servitude over any land [or right to minerals therein]</b> has been expropriated, the expropriating authority shall lodge with the registrar a certified copy of the notice of expropriation, two copies of the relevant expropriation plan of the servitude in question <b>[or where the right to minerals in only a portion of the land has been expropriated, two copies of the relevant expropriation plan of such portion,]</b> and a certificate describing the land and stating the name, number and administrative district thereof, as well as the full names and surname of the registered owner and the number (consisting of the serial and year number) of the title deed, and the registrar shall cause a note of the expropriation to be made in his <u>or her</u> registers, and if at any time the original of the title deed <b>[or of the title under which the right to minerals in question is held]</b> is lodged in his <u>or her</u> registry for any purpose or application is made for the issue of a certified copy of such title deed <b>[or title, he], the registrar shall cause an appropriate note to be endorsed thereon as well as on the office copy thereof and a copy of the expropriation plan to be annexed thereto as well as to the office copy thereof.”;</b></p> <p>(c) the substitution for subsection (5A) of the following subsection:  “(5A) Whenever any right of servitude <b>[or right to minerals]</b> over land has been expropriated and formal cession of such right of servitude <b>[or right to minerals]</b> to the cessionary has not been effected, the registrar shall, on written application by the cessionary and the owner of the land <b>[or right to minerals]</b>, cancel any note of the expropriation in his <u>or her</u> registers or endorsement on the title deed of the land <b>[or the title under which the right to minerals is held,]</b> and thereupon the expropriated right of servitude <b>[or right to minerals]</b> shall vest in such owner.”.</p>

WYSIGINGSWET OP WETTE OOR  
MINERALE EN ENERGIE, 2005

Wet No. 11, 2005

No. en jaar van Wet	Kort titel	Omvang van herroeping of wysiging
		<p>(b) subartikel (5) deur die volgende subartikel te vervang:  “(5) Onmiddellik nadat ’n serwituutreg oor enige grond [<b>of reg op minerale daarop</b>] onteien is, verstrekk die onteienende gesag aan die registrateur ’n gewaarmerkte afskrif van die onteieningskennisgewing, twee kopieë van die toepaslike onteieningsplan van die betrokke serwituut [<b>of waar die reg op minerale op slegs ’n gedeelte van die grond onteien is, twee kopieë van die toepaslike onteieningsplan van sodanige gedeelte,</b>] en ’n sertifikaat wat die grond beskryf en die naam, nommer en administratiewe distrik daarvan, sowel as die volle name en van van die geregistreerde eienaar en die nommer (bestaande uit die volg- en jaarnommer) van die titelbewys aangee, en die registrateur moet ’n aantekening van die onteiening in sy of haar registers laat aanbring, en indien die oorspronklike van die titelbewys [<b>of van die titel waarkragtens die betrokke reg op minerale gehou word,</b>] te eniger tyd by sy of haar registrasiekantoor vir enige doel ingedien word, of daar aansoek om die uitreiking van ’n gesertifiseerde afskrif van sodanige titelbewys [<b>of titel</b>] gedoen word, moet [<b>hy</b>] die registrateur ’n toepaslike endossement daarop sowel as op die kantoorafskrif daarvan laat aanbring en ’n afskrif van die onteieningsplan daaraan, asook aan die kantoorafskrif daarvan, laat heg.”;</p> <p>(c) subartikel (5A) deur die volgende subartikel te vervang:  “(5A) Wanneer ’n serwituutreg oor grond [<b>of reg op minerale daarop</b>] onteien is en formele sessie van daardie serwituutreg [<b>of reg op minerale</b>] aan die sessionaris nie geskied het nie, moet die registrateur op skriftelike aansoek deur die sessionaris en die eienaar van die grond [<b>of reg op minerale</b>] enige aantekening van die onteiening in sy of haar registers of endossement op die titelbewys van die grond [<b>of die titel waarkragtens die reg op minerale gehou word,</b>] rojeer, en daarop berus die aldus onteierende serwituutreg [<b>of reg op minerale</b>] by bedoelde eienaar.”.</p>

## Act No. 11, 2005 MINERALS AND ENERGY LAWS AMENDMENT ACT, 2005

No. and year of Act	Short title	Extent of repeal or amendment
		<p>5. The amendment of section 63 by the substitution for subsection (2) of the following subsection: 5</p> <p style="padding-left: 40px;">“(2) The provisions of subsection (1) shall not apply with reference to any condition in a mortgage bond or lease or in a deed referred to in section 3(1)(c)[, (l), (m),] <u>or</u> (p)[<b>or (q)</b>].” 10</p> <p>6. The amendment of section 64(1) by the deletion of the expression “(other than a right to minerals)” 15</p> <p>7. The substitution for section 67 of the following section: 15</p> <p style="padding-left: 40px;"><b>“Reservation of personal servitudes</b></p> <p style="padding-left: 40px;">67. A personal servitude may be reserved by condition in a deed of transfer of land <b>[or in a deed of cession of rights to minerals,]</b> if the reservation is in favour of the transferor <b>[or cedent]</b>, or in favour of the transferor <b>[or cedent]</b> and his or her spouse or the survivor of them, if they are married in community of property, or in favour of the surviving spouse if transfer <b>[or cession]</b> is passed or given from the joint estate of spouses who were married in community of property.” 20</p> <p>8. The amendment of section 77— 25</p> <p style="padding-left: 40px;">(a) by the deletion in subsection (1) of the expression “or of any rights to minerals in land”; and 30</p> <p style="padding-left: 40px;">(b) by the deletion in subsection (2) of the expression “or right”. 35</p> <p>9. The amendment of section 90 by the substitution in subsection (1) for the words preceding the proviso of the following words: 40</p> <p style="padding-left: 40px;">“If it is expressly provided in— 45</p> <p style="padding-left: 80px;">(a) a registered lease of land <b>[or rights to minerals]</b>; or 45</p> <p style="padding-left: 80px;">(b) a registered deed creating or evidencing a servitude<b>;</b> <b>or]</b>, 50</p> <p style="padding-left: 80px;"><b>[(c) a registered prospecting contract,]</b> that it shall lapse upon failure to make regularly any periodical payments mentioned therein, the registrar shall upon written application accompanied by an affidavit by the lessor or grantor of the registered right (as the case may be) that the said periodical payments have not been duly made, cancel the registration of the lease[,]<u> or</u> servitude <b>[or contract]</b>.” 55</p> <p style="text-align: right;">60</p>



WYSIGINGSWET OP WETTE OOR  
MINERALE EN ENERGIE, 2005

Wet No. 11, 2005

No. en jaar van Wet	Kort titel	Omvang van herroeping of wysiging
		<p>5. Die wysiging van artikel 63 deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>“(2) Die bepalings van subartikel (1) is nie met betrekking tot ’n voorwaarde in ’n verbandakte of huurkontrak of in ’n akte in artikel 3(1)(c) [<b>(l)</b>, <b>(m)</b>,] of <b>(p)</b> [<b>of (q)</b>] bedoel, van toepassing nie.”</p> <p>6. Die wysiging van artikel 64(1) deur die woorde “ander saaklike reg as ’n reg op minerale” deur “saaklike reg” te vervang.</p> <p>7. Die vervanging van artikel 67 deur die volgende artikel:</p> <p><b>“Voorbehoud van persoonlike serwitute</b></p> <p><b>67.</b> ’n Persoonlike serwitut kan deur ’n voorwaarde in ’n transportakte van grond [<b>of in ’n akte van sessie van regte op minerale</b>] voorbehou word, as dit ’n voorbehoud is ten gunste van die transportgewer [<b>of sedent</b>], of ten gunste van die transportgewer [<b>of sedent</b>] en sy of haar gade of die langsewende van hulle as hulle in gemeenskap van goedere getroud is, of ten gunste van die langsewende gade as transport [<b>of sessie</b>] gegee word uit die gemeenskaplike boedel van gades wat in gemeenskap van goedere getroud was.”</p> <p>8. Die wysiging van artikel 77 deur—</p> <p>(a) in subartikel (1) die woorde “of van regte op minerale op grond” te skrap; en</p> <p>(b) in subartikel (2) die woorde “of reg” te skrap.</p> <p>9. Die wysiging van artikel 90 deur in subartikel (1) die woorde voor die voorbehoudsbepaling deur die volgende woorde te vervang:</p> <p>“Indien uitdruklik bepaal word in—</p> <p>(a) ’n geregistreerde huurkontrak van grond [<b>of van regte op minerale</b>]; of</p> <p>(b) ’n geregistreerde akte waarin ’n serwitut gevestig of uitgedruk word [<b>; of</b>];</p> <p><b>[(c) ’n geregistreerde prospekterkontrak,] dat dit verval by versuim om gereeld die daarin vermelde periodieke betalings te doen, moet die registrateur op skriftelike aansoek van die verhuurder of die verlener van die geregistreerde reg (na gelang van die geval), vergesel van sy of haar beëdigde verklaring dat bedoelde periodieke betalings nie na behore [<b>gedaan</b>] <b>gedoen</b> is nie, die registrasie van die huur [<b>,] of serwitut [<b>of kontrak</b>] rojeer.”</b></b></p>

**Act No. 11, 2005 MINERALS AND ENERGY LAWS AMENDMENT ACT, 2005**

No. and year of Act	Short title	Extent of repeal or amendment	
		10. Amendment of section 102 by— (a) the deletion in the definition of “immovable property” of paragraph (a); (b) the deletion of the definition of “prospecting contract”; and (c) the deletion in the definition of “share” of the expression “and rights to minerals”.	5  10
Act No. 95 of 1986	Sectional Titles Act, 1986	The amendment of section 17(5) by the deletion of the expression “, excluding mineral rights,.”	

**Amendment of Schedule I to Act 28 of 2002**

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2. Schedule I to the Mineral and Petroleum Resources Development Act, 2002, is hereby amended by the deletion of the expression “Act No. 47 of 1937” in the first column and the deletion of the related information opposite that expression in the second and third column.

**Short title and commencement**

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3. This Act is called the Minerals and Energy Laws Amendment Act, 2005, and is deemed to have come into operation on 30 April 2004.

WYSIGINGSWET OP WETTE OOR  
MINERALE EN ENERGIE, 2005

Wet No. 11, 2005

No. en jaar van Wet	Kort titel	Omvang van herroeping of wysiging	
		10. Die wysiging van artikel 102 deur— (a) in die omskrywing van “onroerende goed” paragraaf (a) te skrap; (b) die omskrywing van “prospekteerkontrak” te skrap; en (c) in die omskrywing van “aandeel” die woorde “en regte op minerale” te skrap.	5  10
Wet No. 95 van 1986	Wet op Deeltitels, 1986	Die wysiging van artikel 17(5) deur die uitdrukking “, behalwe minerale regte,” te skrap.	15

**Wysiging van Bylae I by Wet 28 van 2002**

2. Bylae I by die “Mineral and Petroleum Resources Development Act, 2002,” word hierby gewysig deur die uitdrukking “Act No. 47 of 1937” in die eerste kolom te skrap en die verwante inligting teenoor daardie uitdrukking in die tweede en die derde kolom te skrap. 20

**Kort titel en inwerkingtreding**

3. Hierdie Wet heet die Wysigingswet op Wette oor Minerale en Energie, 2005, en word geag op 30 April 2004 in werking te getree het.