

# How to replace a lost or destroyed title deed...

By [Leigh-Anne Kriel](#)

25 Jan 2021

A title deed is a document that serves as proof of legal ownership over a property, and is important for the transfer of property. Regulation 68 of the Deeds Registries Act 47 of 1937 sets out the process that needs to be followed when one has lost or destroyed a title deed or mortgage bond.



Photo by Anete Lusina from [Pexels](#)

The regulation used to provide that in the event of a homeowner losing or destroying their title deed, a written application and affidavit could be submitted to the Registrar wherein the owner would outline a number of aspects pertaining to the lost/destroyed deed. If there was a mortgage bond over the property, the relevant bank would sign a document that they were not in possession thereof and that it has no objection to the application. This was a relatively simple process.

## A longing for simpler days

Due to the steady incline of applications for lost or destroyed Title Deeds over recent years, regulation 68 has now been amended by the Department of Rural Development and Land Reform, which has resulted in far-reaching consequences for homeowners. The process is now much more difficult, leaving us all longing for the simpler days.

The application and affidavit process remain, however, a new provision states that the affidavit must be attested to by a notary public. A notary public is an attorney who has specialised in notarial work, which largely consists of the authenticating certain legal documents. Notary publics can be found at most firms that have a Conveyancing Department, and have contributed towards a more costly process than before.

In addition to this, one is required to place an advertisement in a local newspaper and government gazette, which advertises the intention to apply for a certified copy of the title deed or the cancellation of a lost bond. Subsequently, a copy of the title deed or mortgage bond must be left for inspection at the deeds registry for two weeks after the date of advertisement in the newspaper, in order to allow for objections from the public.

## New horizons

Although the amendment has left us longing for simpler days, there has proven to be light at the end of amendment tunnel, providing new horizons for both the legal sector and homeowners. The purpose of the amendment is to raise the standard of care and responsibility, while preventing fraud and creating legal certainty. The new process highlights the importance of care for the original deed, with the option to obtain a new one still being available, albeit in a much more complex manner.

## Conclusion

It is clear that looking after your Title Deed is of utmost importance in avoiding the lengthy, and often costly, process of obtaining a new one. To ensure the safety and preservation of your original Title Deed, it is advised you leave it with the attorneys who have attended to or who are attending to your transfer.

If your property is subject to a mortgage bond, the Title Deed will remain under the bank's custody until the bond is paid off. If you want to transfer your property and you do not have your original Title Deed, it is advised that you inform your conveyancer as soon as possible so that the process can commence and cause as little delay as possible to your transfer.

## ABOUT THE AUTHOR

Leigh-Anne Kriel is a recent LLB graduate from Stellenbosch, working as a Candidate Attorney at SchoemanLaw Incorporated in Cape Town.

Email: [\[enquiries@schoemanlaw.co.za\]](mailto:enquiries@schoemanlaw.co.za)

Website: [\[www.schoemanlaw.co.za\]](http://www.schoemanlaw.co.za)

Facebook: [\[https://web.facebook.com/SchoemanLawInc\]](https://web.facebook.com/SchoemanLawInc)

Linkedin: [\[https://www.linkedin.com/company/schoeman-attorneys-conveyancers-and-notaries-public/\]](https://www.linkedin.com/company/schoeman-attorneys-conveyancers-and-notaries-public/)

Twitter: [\[https://twitter.com/schoemanlawinc\]](https://twitter.com/schoemanlawinc)

For more, visit: <https://www.bizcommunity.com>