

Government Gazette 14921

STATE PRESIDENT'S OFFICE

No. 1161.

2 July 1993

It is hereby notified that the State President has assented the following Act which is hereby published for general "formation:-

No. 89 of 1993: Regional and Land Affairs General Amendment Act, 1993.

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Land Survey Act, 1927, so as to withdraw the Survey Regulations Board's power to make regulations prescribing certain fees; to provide for the delegation of certain powers by the Minister; and to redefine "Minister"; to amend the Black Administration Act, 1927, so as to redefine "Minister"; to amend the Black Authorities Act, 1951, so as to redefine "Minister"; to amend the Kimberley Leasehold Conversion to Freehold Act, 1961, so as to redefine "Minister", to amend the Expropriation of Mineral Rights (Townships) Act, 1969, so as to substitute certain obsolete expressions; to amend the Second Black Laws Amendment Act, 1970, so as to substitute or delete certain obsolete expressions and provisions; to amend the Second Black Laws Amendment Act, 1974, so as to substitute certain obsolete expressions; to amend the Borders of Particular States Extension Act, 1980, so as to substitute or delete certain obsolete expressions and provisions; to amend the Laws on Co-operation and Development Second Amendment Act, 1980, so as to repeal an obsolete provision; to amend the Joint Executive Authority for KwaZulu and Natal Act, 1986, so as to substitute certain obsolete expressions; to amend the Abolition of Racially Based Land Measures Act, 1991, so as to provide for the phasing out of the South African Development Trust Corporation Limited; to amend the Physical Planning Act, 1991, so as to amend certain definitions; and to provide for matters connected therewith.

(English text signed by the State President.)

(Assented to 23 June 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic

of South Africa, as follows:-

Amendment of section 7 of Act 9 of 1927, as substituted by section 7 of Act 71 of 1972 and amended by section 1 of Act 23 of 1977, section 41 of Act 40 of 1984 and section 4 of Act 76 of 1990

1. Section 7 of the Land Survey Act, 1927, is hereby amended by the deletion of paragraph (a) of subsection (1).

Insertion of section 8A in Act 9 of 1927

2. The following section is hereby inserted in the Land Survey Act, 1927, after section 8:

"Delegation of powers

8A. The Minister may delegate or assign any power or duty conferred or imposed upon him by or under this Act, except the power conferred upon him under section 8, to any officer of the Department of Regional and Land Affairs."

Amendment of section 49 of Act 9 of 1927, as amended by section 19 of Act 14 of 1941, section 21 of Act 14 of 1950, section 29 of Act 52 of 1962, section 9 of Act 64 of 1970, section 15 of Act 71 of 1972, section 11 of Act 23 of 1977, section 9 of Act 26 of 1981, section 41 of Act 40 of 1984 and section 7 of Act 76 of 1990

3. Section 49 of the Land Survey Act, 1927, is hereby amended by the substitution for the definition of "Minister" of the following definition:

"'Minister' means the Minister of Community Development and State Auxiliary Services Regional and Land Affairs or any other Minister to whom the State President may from time to time assign ministerial responsibility for the administration of this Act;"

Amendment of section 35 of Act 38 of 1927, as amended by section 9 of Act 9 of 1929, section 3 of Act 9 of 1939, section 10 of Act 21 of 1943, section 17 of Act 67 of 1952, section 4 of Act 42 of 1956, section 4 of Act 70 of 1974, section 2 of Act 3 of 1980 and section 9 of Act 108 of 1991

4. Section 35 of the Black Administration Act, 1927, is hereby amended by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of Plural Relations and Development Regional and Land Affairs or any other Minister of State acting in his stead;"

Amendment of section 1 of Act 68 of 1951, as amended by section 9 of Act 46 of 1959, section 77 of Act 42 of 1964 and section 39 of Act 21 of 1971

5. Section 1 of the Black Authorities Act, 1951, is hereby amended by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of **Plural Relations and Development** *Regional and Land Affairs*;"

Amendment of section 1 of Act 40 of 1961

6. Section 1 of the Kimberley Leasehold Conversion to Freehold Act, 1961, is hereby amended by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of **Lands** *Regional and Land Affairs*;"

Amendment of section 2 of Act 96 of 1969, as amended by section 84 of Act 63 of 1975

7. Section 2 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended-

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) that the owner of such rights is not prepared to grant his consent for the establishment or development of the township or relinquish those rights for a consideration or under conditions which the Administrator, with the concurrence of the Minister of **Community Development** *Regional and Land Affairs* and the Minister of **Mines Mineral and Energy Affairs** and with due regard to the value of those rights as determined by the Minister of **Mines Mineral and Energy Affairs**, regards as a fair consideration or as fair conditions; and"; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) If the Administrator, with the concurrence of the Minister of **Community Development** *Regional and Land Affairs* and the Minister of **Mines Mineral and Energy Affairs** and after consideration of any representations submitted in terms of subsection (1) or (2) and such further information as the Administrator or any of the aforesaid Ministers may deem necessary to obtain, or, if no

representations have been so submitted, after the lapse of the period referred to in subsection (1) or (2) and after consideration of such information as the Administrator or any of the aforesaid Ministers may deem necessary to obtain, is still satisfied as contemplated in subsection (1) or (2), and is of the opinion that in the public interest it is expedient that the land in question be used for the establishment or development of the township rather than for the exploitation of any mineral to which the mineral rights in question relate, the Administrator may expropriate those mineral rights."

Amendment of section 3 of Act 96 of 1969, as amended by section 85 of Act 63 of 1975

8. Section 3 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) In the absence of agreement and subject to the provisions of section 10(5) of the Expropriation Act, 1975, as applied by section 2(4) of this Act, the compensation for mineral rights expropriated under the last-mentioned section shall on the application of the owner of those rights be determined by the Administrator in consultation with the Minister of **Community Development Regional and Land Affairs** and the Minister of **Mines Mineral and Energy Affairs** after consideration of such written representations or information as may accompany the application or as the Administrator or any of the said Ministers may deem necessary to obtain."

Amendment of section 6 of Act 96 of 1969

9. Section 6 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The Administrator may transfer such mineral rights subject to such conditions as he, with the concurrence of the Minister of **Community Development Regional and Land Affairs** and the Minister of **Mines Mineral and Energy Affairs**, may deem necessary in order to ensure that the possession of the mineral rights by the transferee will not prevent or prejudice the establishment or development of the township."

Substitution of section 12 of Act 27 of 1970, as substituted by section 10 of Act 23 of 1972

10. The following section is hereby substituted for section 12 of the Second Black Laws Amendment Act, 1970:

"Transfer of property to certain bodies

12. (1) Subject to the provisions of subsection (2), the Minister of **Plural Relations and Development** *Regional and Land Affairs* may from time to time direct that any property the ownership or control of which is vested in or has been acquired by the Government of the Republic or a provincial administration **or the administration of the territory of South-West Africa** and which, in the opinion of the said Minister, is connected with the functions of any authority, legislative council, legislative assembly, executive council, cabinet or government established, recognized or constituted in terms of the Black Authorities Act, 1951 (Act No. 68 of 1951), **the Development of Self-government for Native Nations in South-West Africa Act, 1968 (Act No. 54 of 1968)** or the **Black States Self-governing Territories** Constitution Act, 1971 (Act No. 21 of 1971), shall vest in or be transferred to any such authority, council, assembly, cabinet or government designated by him.

(2) No direction shall in terms of subsection (1) be issued, except with the concurrence of the Minister of **Finance** *State Expenditure* and, in the case of property the ownership or control of which is vested in or has been acquired by a provincial administration **or the administration of the territory of South-West Africa**, also of the administrator concerned, and any such direction shall be subject to such conditions (if any) as the Minister of **Plural Relations and Development** *Regional and Land Affairs* may with such concurrence determine.

(3) The officer in charge of a deeds registry in which is registered any immovable property to which a direction under subsection (1) relates, shall, on production to him of the title deeds of such property and a statement signed by the **Secretary for Plural Relations and Development** *Director-General: Regional and Land Affairs* that such property has vested in or been transferred in terms of subsection (1) to a body referred to therein, endorse the vesting or transfer on the said deeds and make suitable entries of the vesting or transfer in the records in his office."

Amendment of section 1 of Act 71 of 1974

11. Section 1 of the Second Black Laws Amendment Act, 1974, is hereby amended by the deletion of subsection (2).

Amendment of section 10 of Act 71 of 1974

12. Section 10 of the Second Black Laws Amendment Act, 1974, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Notwithstanding anything to the contrary in any other law contained, the provisions of item 21A of Schedule 1 to the **National States Self-governing Territories Constitution Act, 1971**, shall not empower a legislative assembly to amend or repeal an Act of Parliament and shall not derogate from the legislative powers of Parliament, or the powers or duties of any authority or person in the Republic in terms of an Act of Parliament, and any power conferred on any other authority or person by any law made by virtue of the said item, or any other law relating to any matter mentioned therein, may be exercised only with the prior approval of the Minister of **Plural Relations and Development Regional and Land Affairs**. "

Substitution of section 2 of Act 2 of 1980, as amended by section 1 of Act 77 of 1981

13. The following section is hereby substituted for section 2 of the Borders of Particular States Extension Act, 1980:

"Passing of certain rights and obligations

2. (1) Any right of the Government of the Republic of South Africa **or the South African Development Trust mentioned in section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936)** in respect of land in regard to which a proclamation has been issued under section 1(1), shall, unless such proclamation otherwise provides, vest in the state concerned without the payment of any duty or fee or charge.

(2) Any obligation of the Government of the Republic of South Africa **or the said Development Trust** in respect of the said land shall vest in the state concerned: Provided that if a proclamation referred to in section 1(1) provides under subsection (1) of this section that a right in respect of land shall remain vested in the Government of the Republic of South Africa **or the said Development Trust** after that land has become part of the territory of any such other state, no obligation of the Government **or the Development Trust** in respect of that land shall be vested in that state unless that proclamation otherwise provides.

(2A) If a proclamation referred to in section 1(1) provides under subsection (1) of this section that a right in respect of land shall remain vested in the **said South African Development Trust as it existed immediately before the repeal of the Development Trust and Land Act, 1936 (Act No. 18 of 1936)**, after that land has become part of the territory of any such other state, *such right shall vest in the Government of the Republic of South Africa and the Development Trust Government* shall, notwithstanding the fact that that land no longer forms a part of the Republic, be competent to be the holder of that right and may, notwithstanding any provisions to the contrary in any law contained,

dispose of that right in any manner determined by it at its discretion.

(3) Any such land registered in the name of the Minister of **Co-operation and Development** *Regional and Land Affairs* or of any other person in trust for any Black person, tribe or community, shall vest in the Head of State of the state concerned in trust for such Black person, tribe or community, as the case may be, without the payment of any duty or fee or charge."

Repeal of section 9 of Act 94 of 1980

14. Section 9 of the Laws on Co-operation and Development Second Amendment Act, 1980, is hereby repealed.

Amendment of section 2 of Act 80 of 1986

15. Section 2 of the Joint Executive Authority for KwaZulu and Natal Act, 1986, is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:

"(1) The State President may, on the written recommendation of the Administrator and the Chief Minister, request the Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs* to draw up, in consultation with the Administrator and the Chief Minister, and to submit to him, proposals, in the form of a set of rules complying with the provisions of this Act, providing for the joint and co-ordinated exercise of powers and performance of functions by the provincial government of Natal and the Government of KwaZulu in the area comprising the province of Natal and that part of KwaZulu falling outside that province, or in such portion of that area as may be determined by the State President."; and

(b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:

"(c) refer any such proposals back to the Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs* and request that Minister in consultation with the Administrator and the Chief Minister to modify the proposals in accordance with the requirements of the State President and to submit to him a modified version of such proposals."

Amendment of section 3 of Act XO of 1986

16. Section 3 of the Joint Executive Authority for KwaZulu and Natal Act, 1986, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs* may at the written request of and in consultation with the Administrator and the Chief Minister draw up and submit to the State President a proposed amendment to a proclamation published under section 2(4).".

Amendment of section 7 of Act 80 of 1986, as amended by section 3 of Act 74 of 1991

17. Section 7 of the Joint Executive Authority for KwaZulu and Natal Act, 1986, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The State President shall not issue any assignment or authorization under subsection (1) except at the written request, lodged with the Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs*, of-".

Amendment of section 11 of Act 80 of 1986

18. Section 11 of the Joint Executive Authority for KwaZulu and Natal Act, 1986, is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

"(c) to the Administrator, who shall within seven days transmit the report to the Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs*, who shall table it in Parliament within 14 days after receipt thereof if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.".

Insertion of sections 27A, 27B, 27C, 27D and 27E in Act 108 of 1991

19. The Abolition of Racially Based Land Measures Act, 1991, is hereby amended by the insertion of the following sections after section 27:

"Repeal of Act 46 of 1968 and related laws

27A. (1) Subject to the provisions of section 27B, the following laws are hereby repealed:

(a) The Promotion of the Economic Development of National States Act, 1968 (Act No. 46 of 1968);

- (b) section 16 of the Black Laws Amendment Act, 1974 (Act No. 70 of 1974);*
- (c) sections 12 to 15 inclusive of the Black Laws Amendment Act, 1976 (Act No. 4 of 1976);*
- (d) the Promotion of the Economic Development of National States Amendment Act, 1977 (Act No. 80 of 1977);*
- (e) section 12 of the Black Laws Amendment Act, 1978 (Act No. 12 of 1978);*
- (f) sections 4 and 5 of the Laws on Co-operation and Development Amendment Act, 1980 (Act No. 3 of 1980);*
- (g) section 9 of the Laws on Co-operation and Development Amendment Act, 1983 (Act No. 102 of 1983);*
- (h) sections 6 to 11 inclusive of the Laws on Co-operation and Development Amendment Act, 1984 (Act No. 83 of 1984);*
- (i) section 1 of the Laws on Development Aid Second Amendment Act, 1986 (Act No. 105 of 1986);*
- (j) sections 4 and 5 of the Development Aid Laws Amendment Act, 1988 (Act No. 53 of 1988); and*
- (k) paragraph D of the Schedule to Proclamation No. R.27 of 1992.*

(2) Any proclamation made under section 5 and any regulation made under section 26 of the Promotion of the Economic Development of National States Act, 1968, and in force immediately prior to the commencement of the repeal of those sections in an area, including a self-governing territory, shall, notwithstanding subsection (1) of this section but subject to any amendment thereof under section 87 of this Act, remain in force until repealed under the said section 87.

(3) This section shall come into operation on a date fixed by the State President by proclamation in the Gazette.

South African Development Trust Corporation Limited

27B. (1) The State President may, in order to bring about the phasing out and dissolution of the South African Development Trust Corporation Limited referred to in section 1A of the Promotion of the Economic Development of National States Act, 1968 (Act No. 46 of 1968), by proclamation in the Gazette-

(a) transfer any asset (including land) or right acquired and any liability or obligation incurred by the Corporation to the State, any State department, institution or person, and the State, State department, institution or person, shall, after such transfer? be deemed to have acquired the asset or right or to have incurred the liability or obligation;

(b) assign any power exercised by the Corporation or any duty performed by the Corporation to any State department, institution or person;

(c) transfer any person in the service of the Corporation to any State department or institution, subject to the adjustments (if any) to the conditions of service, remuneration and pension rights of such person as may be specified in the proclamation: Provided that any person who declines such transfer, shall be dealt with in terms of the provisions governing his conditions of service, remuneration and pension rights.

(2) Any transfer or assignment referred to in subsection (1) shall be subject to any term, condition, restriction or direction of the State President as specified in the relevant proclamation.

(3) (a) The registrar of deeds in question shall make the necessary entries and endorsements in respect of his registers and other documents, as well as in respect of any relevant documents produced to him, in order to give effect to such a transfer.

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such a transfer, entry or endorsement.

(4) For the purposes of this section-

(a) institution' means-

(i) a development institution established in terms of section 27C;

(ii) a development corporation or a corporation established in terms of section 5 of the Promotion of the Economic Development of National States Act, 1968; or

(iii) a development corporation or a corporation established in terms of an Act promulgated by a self-governing territory under the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

(b) 'State department' means a department, administration or

organizational component referred to in section 6(1) of the Public Service Act, 1984 (Act No. 111 of 1984).

Establishment of development institution

27C. (1) The State President may, with a view to a transfer or assignment referred to in section 27B, by proclamation in the Gazette from a date fixed by him in such proclamation establish a development institution for an area in which there is no development institution.

(2) The objects of a development institution are to plan, finance, co-ordinate, promote and carry out the development of the area concerned and the inhabitants of such an area in the fields of industry, commerce, finance, mining, agriculture and other business.

(3) The provisions of the Promotion of the Economic Development of National States Act, 1968 (Act No. 46 of 1968), in respect of a development corporation established under section 5 of the said Act, shall mutatis mutandis apply to a development institution.

Dissolution of development corporation, corporation and development institution

27D. The State President may by proclamation in the Gazette from a date fixed by him in such proclamation dissolve a development corporation or a corporation established under section 5 of the Promotion of the Economic Development of National States Act, 1968 (Act No. 46 of 1968), or a development institution established under section 27C, and may regulate matters relating to the assets, liabilities, rights and obligations of that development corporation. corporation or development institution.

Transitional provision

27E. Any act by the South African Development Trust Corporation Limited which purports to have been done in terms of the Promotion of the Economic Development of National States Act, 1968 (Act No. 46 of 1968), with a view to the dissolution of the Corporation, and which can in terms of section SA of the said Act be done by proclamation by the State President, shall be deemed to have been done in terms of section 27B of this Act."

Amendment of section 1 of Act 125 of 1991

20. Section 1 of the Physical Planning Act, 1991 is hereby amended-

(a) by the substitution for the definition of "Department" of the following definition:

" 'Department' means the Department of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs*";;

(b) by the substitution for the definition of "Director-General" of the following definition:

" 'Director-General' means the Director-General: **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs*";; and

(c) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of **Planning, Provincial Affairs and National Housing** *Regional and Land Affairs*".

Short title

21. This Act shall be called the Regional and Land Affairs General Amendment Act,