

Government Gazette 15348

STATE PRESIDENT'S OFFICE

No. 2431.

17 December 1993

It is hereby notified that the Acting State President has assented to the following Act which is hereby published for general information:-

No. 170 of 1993: Regional and Land Affairs Second 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 simplify the erection and testing of reference marks; to amend the Deeds Registries Act, 1937, the Mining Titles Registration Act, 1967, the Alienation of Land Act, 1981, and the Sectional Titles Act, 1986, so as to do away with the power of the State to determine the tariffs in respect of transactions between private persons and conveyancers; to amend the Professional and Technical Surveyors' Act, 1984, so as to further regulate the constitution of the South African Council for Professional and Technical Surveyors and of the Education Advisory Committee; and to further regulate the registration of professional and technical surveyors; to provide for the validation of certain general plans and diagrams; and to provide for matters connected therewith.

(Afrikaans text signed by the Acting State President.)

(Assented to 8 December 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:-

Amendment of section 26bis of Act 9 of 1927, as substituted by section 5 of Act 26 of 1981 and amended by section 9 of Act 76 of 1990

1. Section 26bis of the Land Survey Act, 1927, is hereby amended by the deletion of paragraphs (b), (c) and (d) of subsection (1).

Amendment of section 4 of Act 47 of 1937, as amended by section 3 of Act 43 of 1957

2. Section 4 of the Deeds Registries Act, 1937, is hereby amended by the deletion of subsection (2).

Amendment of section 10 of Act 47 of 1937, as amended by section 5 of Act 43 of 1957, section 5 of Act 43 of 1962, section 4 of Act 87 of 1965, section 4 of Act 3 of 1972, section 2 of Act 92 of 1978, section 5 of Act 27 of 1982, section 3 of Act 62 of 1984 and section 5 of Act 14 of 1993

3. Section 10 of the Deeds Registries Act, 1937, is hereby amended-

(a) by the deletion of paragraph (c) of subsection (1); and

(b) by the deletion of subsection (4).

Substitution of section 15 of Act 47 of 1937

4. The following section is hereby substituted for section 15 of the Deeds Registries Act, 1937:

"Preparation of deeds by conveyancer

15. Save as is otherwise provided in any other law, no deed of transfer, mortgage bond or certificate of title or registration of any kind mentioned in this Act shall be attested, executed or registered by a registrar unless it has been prepared by a conveyancer practising within the province within which his registry is situated. **Such conveyancer, whether or not he practises at the seat of the registry, may recover the fees and charges to which he may be entitled in accordance with any regulation made under section ten."**

Amendment of section 6 of Act 16 of 1967

5. Section 6 of the Mining Titles Registration Act, 1967, is hereby amended by the deletion of subsection (3).

Amendment of section 10 of Act 16 of 1967, as amended by section 2 of Act 14 of 1991

6. Section 10 of the Mining Titles Registration Act, 1967, is hereby amended-

(a) by the deletion of paragraph (b) of subsection (1); and

(b) by the deletion of subsection (2).

Amendment of section 15 of Act 16 of 1967

7. Section 15 of the Mining Titles Registration Act, 1967, is hereby amended by the deletion of subsection (2).

Amendment of section 31 of Act 68 of 1981, as amended by section 14 of Act 51 of 1983

8. Section 31 of the Alienation of Land Act, 1981, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) after consultation with the Minister of Finance, prescribing the matters in respect of which fees, *excluding the fees and charges of conveyancers and notaries public*, shall be payable and the tariff of such fees; and".

Amendment of section 3 of Act 40 of 1984, as amended by section 2 of Act 37 of 1986 and section 3 of Act 34 of 1993

9. Section 3 of the Professional and Technical Surveyors' Act, 1984, is hereby amended-

(a) by the insertion in subsection (2) after paragraph (i) of the following paragraph:

"(iA) *two persons, each of whom shall be a professional or a technical surveyor, nominated by the Institute of Mining Surveyors of South Africa and who ordinarily are resident and practise in the Republic;*";

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

"(j) one person nominated, after the election of the president of the council in terms of section 6(1), by the body mentioned in paragraph (a), (b), (c), (d), (e), (f), (h), **or** (i) *or* (iA) of this subsection which had nominated the member so elected as president, or, if the president was appointed as a member of the council in terms of paragraph (g) of this subsection, one professional surveyor in the service of the State; and"; and

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

"(3) When any nomination in terms of subsection (2) (a), (b), (c), (d), (e), (f), (h), (i), (iA) or (j) becomes necessary, the body concerned shall at the request of the Director-General furnish the nomination or nominations required for appointment to the

council, within a period of 60 days from the date of such request, failing which the Minister may appoint to be a member or members 1 of the council in terms of that subsection any suitable person or persons in the place of the person or persons he would have appointed if the said body had not so failed to nominate a person or persons."

Amendment of section 4 of Act 40 of 1984, as amended by section 4 of Act 34 of 1993

10. Section 4 of the Professional and Technical Surveyors' Act, 1984, is hereby amended-

(a) by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs, respectively:

"(b) in terms of section 3(2) (a), (b), (c), (d), (e), (h),  
**or** (i) *or* (iA) , or as an alternate to any such member  
in terms of section 3(4), unless he is a member of the body which  
nominated him;

(c) in terms of section 3(2)(j), or as an alternate to any such  
member in terms of section 3(4), unless he is a professional  
surveyor or, in the case of a person nominated by the body mentioned  
in section 3(2) (i) *or* (iA), a professional or technical  
surveyor.";

(b) by the substitution for paragraphs (h) and (i) of subsection (2) of the following paragraphs, respectively:

"(h) if he was appointed in terms of section 3(2) (a), (b), (c),  
(d), (e), (h), (i), (iA) or (j) and he ceases to be a member  
of the body which nominated him;

(i) if he ceases to be a professional surveyor or, in the case of a  
person nominated by the body mentioned in section 3(2)(i) or  
(iA), ceases to be a professional or technical surveyor, as  
the case may be;" and

(c) by the substitution for paragraphs (l) and (m) of subsection (2) of the following paragraphs, respectively:

"(l) if he was appointed in terms of section 3(2) (a), (b), (c),  
(d), (e), (f), (h), (i), (iA) or (j) and the Minister  
terminates his appointment on the recommendation of the body which  
nominated him;

(m) if he was appointed in terms of section 3(2)(g) *or* (k)

and the Minister terminates his appointment."

Amendment of section 12 of Act 40 of 1984, as amended by section 8 of Act 34 of 1993

11. Section 12 of the Professional and Technical Surveyors' Act, 1984, is hereby amended-

(a) by the insertion in subsection (1) after paragraph (e) of the following paragraph:

*"(eA) one member of the council appointed in terms of section 3(2)(iA) and nominated by the council;"*; and

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

*"(3) The provisions of section 3(3) shall apply mutatis mutandis in respect of the appointment of a member of the education advisory committee referred to in subsection (1)(a), (d), **and** (e) and (eA) of this section."*

Amendment of section 14 of Act 40 of 1984, as amended by section 9 of Act 34 of 1993

12. Section 14 of the Professional and Technical Surveyors' Act, 1984, is hereby amended by the substitution for paragraph (d) of the following paragraph:

*"(d) if he was appointed in terms of section 12(1)(d), **or** (e) or (eA) and ceases to be a member of the council;"*.

Amendment of section 20 of Act 40 of 1984, as substituted by section 11 of Act 34 of 1993

13. Section 20 of the Professional and Technical Surveyors' Act, 1984, is hereby amended-

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

*"(c) the passing of an examination **approved by the Chief Surveyor-General** regarding laws concerning surveying and related matters as may be prescribed in relation to different categories of professional surveyors;"*;

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

"(e) the carrying out **to the satisfaction of the Chief Surveyor-General** of such trial surveys or practical tests as the **Chief Surveyor-General may, with the concurrence of the council** may determine; and";

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

"(2) The council shall, subject to the provisions of section 24(1), on application in the prescribed form by any person who in the opinion of the council, after consultation with the Chief Surveyor-General *in the case of a person who applies to be registered as a professional land surveyor*, complies with the requirements mentioned in subsection (1), and upon payment of the registration and annual fees, register any such person as a professional surveyor and cause such person's name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him."; and

(d) by the insertion after subsection (2) of the following subsections:

"(2A) *Notwithstanding the provisions of subsection (1), an person, excluding a person referred to in section 7(4)(a), who desires to be registered as a professional surveyor and who has not passed the examination referred to in subsection (1) (b) and who on a date determined by the council-*

*(a) has gained at least 15 years' experience in such practical work as in the opinion of the council is of sufficient variety and of a satisfactory nature and standard; and*

*(i) has gained during this period at least five years' experience in a senior managerial position which in the opinion of the council is of a satisfactory nature; or*

*(ii) has passed such examination as the education advisory committee, with the concurrence of the council, may accept or determine; and*

*(b) complies with the requirements referred to in subsection (1)(c), (e) and (f),*

*may within six months after the date of commencement of section 13 of the Regional and Land Affairs Second General Amendment Act, 1993, or such further period as the council may determine, apply to the council to be registered.*

*(2B) The council shall, subject to the provisions of section 24(1), on application in the prescribed form by any person referred to in*

*subsection (2A), and upon payment of the registration and annual fees, register any such person as a professional surveyor and cause such person's name to be entered in the appropriate register and a certificate of registration in the prescribed form to be issued to him."*

Amendment of section 22 of Act 40 of 1984, as amended by section 4 of Act 37 of 1986 and section 13 of Act 34 of 1993

14. Section 22 of the Professional and Technical Surveyors' Act, 1984, is hereby amended-

- (a) by the insertion in paragraph (a) of subsection (1) after subparagraph (i) of the following subparagraph:

*"(iA) the passing of such examination approved by the council regarding laws concerning surveying and related matters as may be prescribed in relation to surveyors;"*;

- (b) by the substitution for subparagraph (iii) of paragraph (a) of subsection (1) of the following subparagraph:

*"(iii) the carrying out **to the satisfaction of the Chief Surveyor-General** of such trial surveys or practical tests as the **Chief Surveyor-General may, with the concurrence of the council** may determine; and"*;

- (c) by the substitution for subparagraph (iii) of paragraph (b) of subsection (1) of the following subparagraph:

*"(iii) the carrying out **to the satisfaction of the Chief Surveyor-General** of such trial surveys or practical tests as the **Chief Surveyor-General may, with the concurrence of the council** may determine; and"*; and

- (d) by the substitution in subsection (3) for the expression "Chief Surveyor-General", wherever it occurs, of the expression "council".

Amendment of section 30 of Act 40 of 1984, as amended by section 19 of Act 34 of 1993

15. Section 30 of the Professional and Technical Surveyors' Act, 1984, is hereby amended by the substitution for subsection (2) of the following subsection:

*"(2) A summons requiring any person to appear before the council or to produce any book, document or thing, shall be in the form determined by the council, be signed by the president of the council or a person*

authorized thereto by it and served in the same manner as a summons in a criminal case issued by a magistrate's court *or, in the case of a summons to be served in a designated country as defined in the Reciprocal Service of Civil Process Act, 1990 (Act No. 12 of 1990), in accordance with the provisions of that Act."*

Amendment of section 15 of Act 95 of 1986, as substituted by section 9 of Act 63 of 1991

16. Section 15 of the Sectional Titles Act, 1986, is hereby amended by the deletion of subsection (2).

Amendment of section 55 of Act 95 of 1986, as amended by section 23 of Act 63 of 1991, section 10 of Act 7 of 1992 and section 3 of Act 15 of 1993

17. Section 55 of the Sectional Titles Act, 1986, is hereby amended by the deletion of paragraph (h).

Validation of certain general plans and diagrams

18. Any general plan or diagram purportedly approved after 13 October 1983 under the Regulations for the Administration and Control of Townships in Black Areas, 1962 (promulgated under Proclamation R.293 of 1962), or any draft general plan or draft diagram purportedly approved under section 8(1) or 11 of the Regulations concerning Land Tenure in Towns, 1988 (promulgated under Proclamation R.29 of 1988), by a land surveyor on behalf of the Minister or the Director-General of the former Department of Development Aid, and which is invalid by reason of the absence of the approval of the said Minister or Director-General, is hereby validated with effect from the date on which such general plan, diagram, draft general plan or draft diagram was approved by the land surveyor.

Transitional provision

19. Notwithstanding the provisions of section 3(5) of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), the term of office of the members of the South African Council for Professional and Technical Surveyors appointed under section 3(2)(iA) of the said Act immediately after the commencement of the Regional and Land Affairs Second General Amendment Act, 1993, shall terminate on 10 September 1995.

Short title

20. This Act shall be called the Regional and Land Affairs Second General Amendment Act, 1993.