

# LAND REFORM: PROVISION OF LAND AND ASSISTANCE ACT NO. 126 OF 1993

[\[View Regulation\]](#)

[ASSENTED TO 9 JULY, 1993]  
[DATE OF COMMENCEMENT: 23 JULY, 1993]  
(Afrikaans text signed by the State President)

This Act has been updated to *Government Gazette* 31788 dated 9 January, 2009.

## as amended by

Development Facilitation Act, [No. 67 of 1995](#)  
Provision of Certain Land for Settlement Amendment Act, [No. 26 of 1998](#)  
Land Affairs General Amendment Act, [No. 11 of 2000](#)  
Provision of Land and Assistance Amendment Act, [No. 58 of 2008](#)  
Rural Development and Land Reform General Amendment Act, [No. 4 of 2011](#)

## GENERAL NOTE

In terms of [s. 11](#) of [Act No. 26 of 1998](#), the word "Administrator", wherever it occurs, is substituted by the word "Minister".

## ACT

To provide for the designation of certain land; to regulate the subdivision of such land and the settlement of persons thereon; to provide for the acquisition, maintenance, planning, development, improvement and disposal of property and the provision of financial assistance for land reform purposes; and to provide for matters connected therewith.

[Long title substituted by [s. 12](#) of [Act No. 26 of 1998](#) and by [s. 9](#) of [Act No. 58 of 2008](#).]

## ARRANGEMENT OF SECTIONS

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**1. Definitions.**—In this Act, unless the context otherwise indicates—

"Administrator" . . . . .

[Definition of "Administrator" deleted by [s. 1](#) of [Act No. 26 of 1998](#).]

### Wording of Sections

"agricultural enterprise" includes an enterprise engaged in activities pertaining to agricultural production and

plantation, livestock production, agricultural services, hunting, trapping and game propagation, forestry and logging, aquaculture and fishing and any property utilised to carry on that enterprise;

[Definition of "[agricultural enterprise](#)" inserted by [s. 1 \(a\)](#) of [Act No. 58 of 2008](#).]

**"deeds registry"** means a deeds registry as defined in [section 102](#) of the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#));

**"Department"** means the Department of Rural Development and Land Reform;

[Definition of "[Department](#)" inserted by [s. 1 \(b\)](#) of [Act No. 58 of 2008](#) and substituted by [s. 17](#) of [Act No. 4 of 2011](#).]

#### [Wording of Sections](#)

**"designated land"** means land which is under [section 2](#) designated for settlement;

**"developer"** means any person who under [section 4](#) undertakes the development of designated land;

**"development body"** . . . . .

[Definition of "[development body](#)" deleted by [s. 1](#) of [Act No. 26 of 1998](#).]

#### [Wording of Sections](#)

**"enterprise"** means an undertaking engaged in production or distribution of goods or services not for the sole purpose of own consumption;

[Definition of "[enterprise](#)" inserted by [s. 1 \(c\)](#) of [Act No. 58 of 2008](#).]

**"Minister"** means the Minister of Rural Development and Land Reform;

[Definition of "[Minister](#)" substituted by [s. 68](#) of [Act No. 67 of 1995](#) and by [s. 17](#) of [Act No. 4 of 2011](#).]

#### [Wording of Sections](#)

**"partition plan"** means a partition plan as referred to in [section 6](#);

**"prescribed"** means prescribed by or under this Act;

**"property"** includes movable or immovable, corporeal or incorporeal property and includes shares, rights, title or interest in or to a juristic person, other entity or a trust;

[Definition of "[property](#)" inserted by [s. 1 \(d\)](#) of [Act No. 58 of 2008](#).]

**"settlement"** means the settlement of persons on designated land as referred to in section 7 (1);

**"this Act"** includes a regulation made under this Act.

**1A. Objects of Act.**—The objects of this Act are to—

- (a) give effect to the land and related reform obligations of the State in terms of [section 25](#) of [the Constitution](#) of the Republic of South Africa, 1996;
- (b) effect, promote, facilitate or support the maintenance, planning, sustainable use, development and improvement of property contemplated in this Act;
- (c) contribute to poverty alleviation; and
- (d) promote economic growth and the empowerment of historically disadvantaged persons.

[[S. 1A](#) inserted by [s. 2](#) of [Act No. 58 of 2008](#).]

**2. Powers of Minister with regard to certain land.**—(1) The Minister may, subject to the provisions of [section 3](#), designate for the purposes of settlement—

- (a) State land which is controlled by him or her and made available by him or her for those purposes;
- (b) land which is purchased or acquired by him or her for those purposes and which is made available by him or her for those purposes;
- (c) any land which has been made available for those purposes by the owner thereof.

(2) The Minister shall give notice in the *Gazette* of any land designated under [subsection \(1\)](#).

(3) The Minister may by notice in the *Gazette*—

- (a) impose conditions for the use of the land designated under [subsection \(1\)](#); and
- (b) amend, withdraw or provide for the lapsing of any condition contemplated in [paragraph \(a\)](#).

[[Sub-s. \(3\)](#) substituted by [s. 3](#) of [Act No. 11 of 2000](#).]

#### Wording of Sections

(4) The laws governing the subdivision of agricultural land and the establishment of townships shall not apply in respect of land referred to in [subsection \(1\)](#) unless the Minister directs otherwise in the notice in question.  
[[S. 2](#) substituted by [s. 2](#) of [Act No. 26 of 1998](#).]

#### Wording of Sections

**3. Publication of notice in newspaper.**—(1) Taking into consideration the languages most commonly used in the district, the Minister shall cause to be published in at least one newspaper circulating in the district in which the designated land is situated, a notice calling upon interested parties to submit in writing to the Minister within a period mentioned in the notice, which period may not be shorter than 21 days, following the day upon which the notice appeared in the newspaper, any representations which they wish to make in respect of the contemplated designation: Provided that if no substantial change in land use is likely to occur as a result of the proposed settlement in terms of this Act, the Minister may direct that no such publication shall be necessary.

(2) The Minister shall not designate any land before he or she has considered all the representations received by virtue of [subsection \(1\)](#).  
[[S. 3](#) substituted by [s. 3](#) of [Act No. 26 of 1998](#).]

#### Wording of Sections

**4. Development of designated land.**—The development of designated land shall be undertaken—

- (a) in the case of land referred to in [section 2 \(1\) \(a\)](#) or [\(b\)](#), by the Minister or by someone with whom he has concluded an agreement for that purpose; and
- (b) in the case of land referred to in [section 2 \(1\) \(c\)](#), by the owner of that land or by someone with whom he has concluded an agreement for that purpose.

**5. Subdivision of designated land.**—The developer may, subject to the conditions contemplated in [section 2 \(3\)](#), subdivide the designated land or cause it to be subdivided in accordance with the provisions of this Act into pieces of land for small-scale farming, residential, public, community, business or similar purposes.

**6. Partition plan.**—(1) The developer shall draw up or cause to be drawn up a partition plan indicating the intended subdivision of the designated land.

(2) If the Minister is not the developer, the developer shall submit such partition plan to the Minister, and if the Minister is satisfied with the intended subdivision of the designated land, he shall approve the partition plan.

**7. Surveying and approval of plans and diagrams.**—The developer shall—

- (a) as indicated on the approved partition plan, cause plans and diagrams to be prepared for the designated land, and shall cause such plans and diagrams to be submitted to the surveyor-general for approval; and
- (b) after the plans and diagrams have been approved or provisionally approved by the surveyor-general, file such plans and diagrams at the deeds registry for registration by the registrar of deeds.

**8. Settlement of persons on designated land.**—(1) The developer may, subject to the provisions of subsection (2), alienate or lease a piece of land referred to in [section 5](#) to any person.

(2) Settlement of a person shall take place only after a land surveyor has surveyed the designated land and placed the beacons: Provided that the Minister may in a particular case grant permission that such settlement may take place in a manner determined by him even though the beacons concerned have not been placed.

**9. Registration of ownership.**—(1) If ownership in a piece of land referred to in [section 5](#) is transferred, the developer shall, as soon as the surveying thereof is completed, lodge a deed of transfer, made out in the name of the person to which such piece of land has been alienated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#)), at the deeds registry, whereupon the registrar of deeds shall register such piece of land in the name of that person.

[[Sub-s. \(1\)](#) substituted by [s. 68](#) of [Act No. 67 of 1995](#).]

#### Wording of Sections

(2) A deed of transfer referred to in [subsection \(1\)](#) shall be prepared by—

- (a) a conveyancer; or
- (b) if the owner of the piece of land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister, a Premier or a local government body, as the case may be.

[[Sub-s. \(2\)](#) substituted by [s. 68](#) of [Act No. 67 of 1995](#).]

Wording of Sections

(3) A deed of transfer referred to in [subsection \(1\)](#) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in [subsection \(2\) \(a\)](#) or an officer or person referred to in [subsection \(2\) \(b\)](#) in the manner prescribed under that Act.

[[Sub-s. \(3\)](#) substituted by [s. 68](#) of [Act No. 67 of 1995](#).]

Wording of Sections

(4) An officer or person referred to in [subsection \(2\) \(b\)](#)—

- (a) shall disclose the fact that the deed of transfer referred to in [subsection \(1\)](#), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, *mutatis mutandis*, in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and
- (b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.

[[Sub-s. \(4\)](#) substituted by [s. 68](#) of [Act No. 67 of 1995](#).]

Wording of Sections

(5) A conveyancer, officer or person referred to in [subsection \(2\)](#) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

[[Sub-s. \(5\)](#) added by [s. 68](#) of [Act No. 67 of 1995](#).]

(6) The registrar shall deal with a deed of transfer and other documents referred to in [subsection \(5\)](#) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.

[[Sub-s. \(6\)](#) added by [s. 68](#) of [Act No. 67 of 1995](#).]

(7) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in [subsection \(1\)](#).

[[Sub-s. \(7\)](#) added by [s. 68](#) of [Act No. 67 of 1995](#).]

(8) . . . . .

[[Sub-s. \(8\)](#) added by [s. 68](#) of [Act No. 67 of 1995](#), substituted by [s. 4](#) of [Act No. 26 of 1998](#) and repealed by [s. 3](#) of [Act No. 58 of 2008](#).]

Wording of Sections

**10. Provision of property for land reform purposes.**—(1) The Minister may, from money appropriated by Parliament for the purpose of this Act—

- (a) acquire property; and
- (b) on such conditions as he or she may determine—
  - (i) make available state land administered or controlled by him or her or made available to him or her;
  - (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose;
  - (iii) provide financial assistance by way of an advance, subsidy, grant or otherwise to any person for the acquisition, maintenance, planning, development or improvement of property and for capacity building, skills development, training and empowerment; or
  - (iv) in writing authorise the transfer of funds to—
    - (aa) a provincial government;
    - (bb) a municipality;

(cc) any other organ of state; or

(dd) any other person or body recognised by the Minister for such purposes,

which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.

(2) The laws governing land use, the subdivision or consolidation of land, or the establishment of townships, shall not apply to land contemplated in this Act unless the Minister directs otherwise in writing.

(3) The Minister shall have all the rights, powers and duties arising from or incidental to anything contemplated in this section and, without detracting from the generality of the foregoing, may—

(a) maintain property, including state land;

(b) conduct a business or other economic enterprise; or

(c) exercise the rights of a holder of shares or a right in or to a juristic person, other entity or trust,

contemplated in [subsection \(1\)](#).

(4) Despite [section 14](#) of the Deeds Registries Act, 1937 ([Act No. 47 of 1937](#)), and the provisions of any other law to the contrary, the transfer of ownership of any property contemplated in this Act—

(a) may be passed and registered directly from the owner of such property to a person to whom the Minister has disposed of such property; and

(b) shall be exempt from the payment of any transfer, stamp or other duty, fees of the deeds office or other charge.

[[S. 10](#) substituted by [s. 68](#) of [Act No. 67 of 1995](#), by [s. 5](#) of [Act No. 26 of 1998](#) and by [s. 4](#) of [Act No. 58 of 2008](#).]

#### Wording of Sections

**10A. Activities to be managed as separate unit.**—(1) The Department must account for the acquisition, management, disposal and leasing of property and the provision of financial assistance in terms of this Act through a trading entity established and operating in accordance with the requirements of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).

(2) The trading entity referred to in terms of [subsection \(1\)](#), once established, must maintain separate and itemised financial accounts and accounting records in respect of each agricultural enterprise or separately administered portion of immovable property which it acquires, manages, disposes of, or leases.

[[S. 10A](#) inserted by [s. 5](#) of [Act No. 58 of 2008](#).]

**11. Minister's power to dispose of property.**—The Minister may, on such terms and conditions as he or she may deem fit, for the purposes of this Act, sell, exchange, donate, lease, award or otherwise dispose of or encumber any property contemplated in this Act or, if such property is no longer required for the purposes of this Act, for any other purpose."

[[S. 11](#) repealed by [s. 68](#) of [Act No. 67 of 1995](#), inserted by [s. 6](#) of [Act No. 26 of 1998](#) and substituted by [s. 6](#) of [Act No. 58 of 2008](#).]

#### Wording of Sections

**12. Expropriation Act.**—(1) Without derogating from the powers that a Minister may exercise under the Expropriation Act, 1975 ([Act No. 63 of 1975](#)), the Minister may for the purposes of this Act, exercise equivalent powers to the powers that such other Minister may exercise under the Expropriation Act, 1975.

(2) Notwithstanding the provisions of the Expropriation Act, 1975, the owner of the land in question shall be given a hearing before any land is expropriated in terms of this Act.

(3) In the event of expropriation, compensation shall be paid as prescribed by [the Constitution](#), with due regard to the provisions of [section 12 \(3\), \(4\)](#) and (5) of the Expropriation Act, 1975.

(4) Any right in land which derives from the provisions of this Act will be capable of expropriation in accordance with the provisions of any applicable legislation.

[[S. 12](#) substituted by [s. 7](#) of [Act No. 26 of 1998](#).]

#### Wording of Sections

**13. ....**

[[S. 13](#) repealed by [s. 8](#) of [Act No. 26 of 1998](#).]

#### Wording of Sections

**14. Regulations.**—The Minister may make regulations regarding—

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) the sizes of the pieces of land into which the designated land shall be subdivided;
- (c) any steps which may be taken if the developer does not comply with the conditions contemplated in [section 2 \(3\)](#) or, if applicable, the developer does not comply with any term of an agreement referred to in [section 4](#);
- (d) the supply of services to persons who are settled on the designated land;
- (e) the number of people who may inhabit a piece of land contemplated in [section 5](#);
- (f) the grant of financial or other assistance to a buyer or lessee of a piece of land contemplated in [section 5](#),
- (g) the matters contemplated in [section 10](#),  
[[Para. \(g\)](#) added by [s. 7](#) of [Act No. 58 of 2008](#).]

and, generally, with regard to any other matter which he considers it necessary or expedient to prescribe in order to achieve or promote the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this section.

**15. Delegation.**—(1) The Minister may, on such conditions as he or she may determine—

- (a) delegate to any officer in the Department of Rural Development and Land Reform any power conferred upon the Minister by this Act, except the power under [section 14](#) to make regulations;  
[[Para. \(a\)](#) substituted by [s. 18](#) of [Act No. 4 of 2011](#).]

Wording of Sections

- (b) authorize any such officer to perform any duty imposed upon the Minister by this Act.

(2) The Minister may, either in general or in a particular case or in cases of a particular nature and on such conditions as he or she may determine—

- (a) delegate to the Premier of a province or, with the concurrence of the Premier, to a member of the Executive Council of that province, any power conferred upon the Minister by this Act, except the power under [section 14](#) to make regulations;
- (b) authorize that Premier or member of the Executive Council to perform any duty imposed upon the Minister by this Act.

(3) The Premier or the member of the Executive Council contemplated in [subsection \(2\)](#) may, subject to such conditions as the Minister may determine—

- (a) delegate to the Director-General of the province or any officer of the provincial administration in question any power delegated to that Premier or member under [subsection \(2\)](#);
- (b) authorize that Director-General or any such officer to perform any duty which that Premier or member is authorised to perform under [subsection \(2\)](#).

(4) The Minister may, with the concurrence of a Municipal Council, either in general or in a particular case or in cases of a particular nature and on such conditions as he or she may determine—

- (a) delegate to any officer of the Municipal Council any power conferred upon the Minister by this Act, except the power under [section 14](#) to make regulations;
- (b) authorize that officer of the Municipal Council to perform any duty imposed upon the Minister by this Act.

(5) Any delegation of a power or authorisation to perform a duty under this section—

- (a) shall be done in writing;
- (b) shall not prevent the person who effected the delegation or granted the authorisation from exercising that power of performing that duty himself or herself;
- (c) may at any time be withdrawn in writing by that person.

[[S. 15](#) substituted by [s. 9](#) of [Act No. 26 of 1998](#).]

Wording of Sections

**16. Short title.**—This Act shall be called the Land Reform: Provision of Land and Assistance Act, 1993.

[[S. 16](#) substituted by [s. 10](#) of [Act No. 26 of 1998](#) and by [s. 8](#) of [Act No. 58 of 2008](#).]

Wording of Sections