

STATE LAND DISPOSAL ACT NO. 48 OF 1961

Assented to: 19 June 1961

Date of commencement: 28 June 1961

ACT

To provide for the disposal of certain State land and for matters incidental thereto, and to prohibit the acquisition of State land by prescription.

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1. Definitions

In this Act, unless the context otherwise indicates-

board

[Definition of "board" inserted by s. 1 (b) of Act No. 66 of 1982 and deleted by s. 7 (1) (b) of Act No. 108 of 1993.]

Minister means the Minister of Land Affairs in the National Government;

[Definition of "Minister" substituted by s. 1 (a) of Act No. 66 of 1982, s. 1 of Act No. 47 of 1987 and s. 1 of Act No. 19 of 1988, amended by s. 36 (6) of Act No. 9 of 1989 and substituted by s. 7 (1) (a) of Act No. 108 of 1993, by Proclamation No. R.41 of 1994 and by Proclamation No. 67 of 1995.]

State land includes any land over which the right of disposal by virtue of the provisions of section 3 (4) of the Agricultural Holdings (Transvaal) Registration Act, 1919 (Act No. 22 of 1919), and section 78 (3) and (4) of the Townplanning and Townships Ordinance, 1965 (Ordinance No. 25 of 1965) (Transvaal), vests in the President, and any right in respect of State land.

[Definition of "State land" substituted by s. 1 (c) of Act No. 66 of 1982. S. 1 substituted by s. 1 of Act No. 28 of 1968.]

2. President may dispose of certain State land

- (1) Subject to the provisions of subsections (2) and (3) the President may, on such terms and conditions as he may deem fit, sell, exchange, donate or lease any State land on behalf of the State.
- (2) The President shall not dispose of any particular State land in terms of subsection (1) if the disposal thereof is governed by a provincial ordinance: Provided that the provisions of this subsection shall not apply in respect of the lease of the whole or any portion of-
 - (a) places upon State land which have been reserved by the President as contemplated in Item 5 of the Second Schedule to the Financial Relations Consolidation and Amendment Act, 1945

(Act No. 38 of 1945), as being places of public resort, of public recreation, or of historical or scientific interest; and

- (b) State land situated in public resorts, places of rest, seaside resorts, holiday centres, holiday camps, caravan parks, tent camps and picnic places referred to in Item 24 of the Second Schedule to the said Act,

which cannot lawfully be leased in terms of any such ordinance.

[Sub-s. (2) substituted by s. 2 (a) of Act No. 28 of 1968 and amended by s. 1 of Act No. 26 of 1976.]

- (2A) When transfer of any land alienated in terms of subsection (1) is registered, the Minister may authorize the registrar of deeds in writing to endorse on the title deeds of the said land and any other immovable property of the transferee a restriction to the effect that such land and such other immovable property shall not without the consent of the Minister be alienated separately.

[Sub-s. (2A) inserted by s. 2 (b) of Act No. 28 of 1968.]

- (2B) The said registrar shall give effect to the said authorization in such manner as may to him appear to be most practicable and convenient, and thereupon such restriction shall be valid and effective against all persons except against any person (including the State) in whose favour a mortgage bond or other charge was registered against any immovable property prior to the endorsement of the said restriction on the title deeds of such property.

[Sub-s. (2B) inserted by s. 2 (b) of Act No. 28 of 1968.]

- (2C) The Minister may authorize the said registrar in writing to cancel any restriction referred to in subsection (2A), and the registrar shall give effect to any such authorization in such manner as may to him appear to be most practicable and convenient.

[Sub-s. (2C) inserted by s. 2 (b) of Act No. 28 of 1968.]

- (2D) The Minister may, notwithstanding anything to the contrary in any law contained, grant the consent referred to in subsection (2A) subject to such conditions as he may deem fit.

[Sub-s. (2D) inserted by s. 2 (b) of Act No. 28 of 1968.]

- (3) The provisions of sub-section (1) shall not exempt the State from complying with any obligation in terms of the conditions subject to which the State holds any particular State land.

- (4)

[Sub-s. (4) deleted by s. 2 of Act No. 66 of 1982.]

2A. **Powers of President in relation to certain rights of State in respect of private land**

- (1) The President may-

- (a) on such terms and conditions as he may deem fit, consent to the amendment or cancellation of any condition which was, before or after the commencement of this Act, embodied in or registered against a deed of grant or deed of transfer in terms of any law or otherwise and whereby any right was reserved to or acquired by the State in respect of land;

- (b) at any time exercise any such right.

- (2) If the President has in terms of subsection (1) (a) consented to the amendment or cancellation of a condition referred to in that subsection, he may authorize the registrar of deeds concerned in writing to endorse the amendment or cancellation, as the case may be,

on the title deed of the land concerned, and the said registrar shall give effect to the said authorization in such manner as may to him appear to be most practicable and convenient.

[S. 2A inserted by s. 3 of Act No. 28 of 1968 and substituted by s. 2 of Act No. 47 of 1987.]

2B. Disposal of State land in Foreshore, Cape Town

(1) Land vesting in the State under section 19 (2) of the Cape Town Foreshore Act, 1950 (Act No. 26 of 1950), as from 1 April 1979, shall be State land to which the provisions of this Act shall apply.

(2) Land which before the date referred to in subsection (1) was-

(a) sold, exchanged or donated by the board but in respect of which title has not yet been given on that date; or

(b) leased by the board,

shall be deemed to have been sold, exchanged, donated or leased under the provisions of this Act.

(3) The Minister may from time to time out of the proceeds of the sale or lease referred to in subsections (1) and (2) pay to the City Council of the City of Cape Town such amounts as the Minister may determine with the concurrence of the Minister of Finance.

[S. 2B inserted by s. 3 of Act No. 66 of 1982.]

2bis

[S. 2bis inserted by s. 18 of Act No. 66 of 1963 and repealed by s. 2 of Act No. 26 of 1976.]

3. State land not subject to acquisitive prescription

Notwithstanding any rule of law to the contrary State land shall, after the expiration of a period of ten years from the date of commencement of this Act, not be capable of being acquired by any person by prescription.

4.

[S. 4 repealed by s. 4 of Act No. 28 of 1968.]

5. Execution of documents in connection with disposal of State land

(1) If the President has under section two-

(a) sold, exchanged or donated any State land, he shall either issue an appropriate deed of grant or cause to be registered in a deeds registry such other deed as may be appropriate;

(b) leased any State land, he shall sign or cause to be signed on behalf of the State an appropriate lease.

(2) Any documents required to effect registration of a deed mentioned in paragraph (a) of subsection (1), any lease mentioned in paragraph (b) of the said subsection not signed by the President, and any documents required to effect the registration of such a lease in a deeds registry, shall be signed on behalf of the State by a person authorized thereto by the President either generally or in regard to specified State land or in any specified case.

6. Assignment of powers and duties by President

- (1) The President may either generally or in regard to specified State land or in a specified case assign with retrospective effect from a date not earlier than 1 April 1992 to the Minister any power or duty conferred or imposed upon him by section 2, 2A or 5 and any power or duty to issue deeds of grant which he may otherwise have.

[Sub-s. (1) substituted by s. 8 (a) of Act No. 108 of 1993.]

- (2) If the President assigns to the Minister any power conferred upon him by section 2, the Minister shall have the powers and be subject to the duties conferred or imposed upon the President by section 5 in connection with the exercising of the power so assigned.

[Sub-s. (2) substituted by s. 8 (b) of Act No. 108 of 1993.]

- (3)

[Sub-s. (3) deleted by s. 8 (c) of Act No. 108 of 1993. S. 6 amended by s. 5 of Act No. 28 of 1968 and substituted by s. 4 of Act No. 66 of 1982.]

7. Assignment of powers and duties by Minister

- (1) The Minister may either generally or in regard to specified State land or in a specified case, assign-

- (a) any power or duty conferred or imposed upon him or her by or in terms of this Act, to a Premier or a member of the Executive Council of a province; or any officer in the service of the State or, with the prior approval of the relevant Premier, any officer in the service of a provincial government; and

[Para. (a) substituted by Proclamation No. 67 of 1995.]

- (b) any power conferred upon him in terms of this Act to lease State Land, to any council or body instituted or appointed by or in terms of any law.

[Para. (b) substituted by s. 5 of Act No. 66 of 1982. Sub-s. (1) substituted by s. 3 of Act No. 26 of 1976.]

- (2) If the Minister so assigns any power referred to in section two, the provisions of sub-section (2) of section six shall *mutatis mutandis* apply.

8. Regulations

The President may make any regulations which he considers necessary or expedient for the achievement of the purposes and objects of this Act.

8A. Operation of Act in relation to certain proclamations and regulations

The provisions of this Act shall apply in addition to, and not in substitution for, the provisions of any proclamation or regulation referred to in sections 5 (2), 8 (2) and 11 (2) of the Abolition of Racially Based Land Measures Act, 1991 (Act No. 108 of 1991).

[S. 8A inserted by s. 9 of Act No. 108 of 1993.]

9. Repeal of laws, and provisions relating to certain disposals of State land prior to commencement of this Act

- (1) Subject to the provisions of sub-section (2) the laws specified in the Schedule are hereby repealed to the extent shown in the third column thereof.

- (2) Any provision of a law repealed by sub-section (1) which immediately prior to the commencement of this Act applies in respect of any prior disposal of State land or in respect of any matter arising out of any such disposal, shall continue so to apply as if such law had not been repealed.

- (3) Any disposal of State land at the public instance prior to the commencement of this Act which was not effected under or by virtue of any rule of law, shall be deemed to have been lawfully effected.

10. Short title

This Act shall be called the State Land Disposal Act, 1961.

**Schedule
Laws repealed**

No. and Year of Law	Territory and Title or Subject	Extent of Repeal
	Cape of Good Hope	
Act No. 37 of 1882	Agricultural Lands Act, 1882	The whole
Act No. 3 of 1883	Cemeteries Act, 1883	Paragraph (1) of section 5
Act No. 40 of 1885	Agricultural Lands Amendment Act, 1885	The whole
Act No. 15 of 1887	Crown Lands Disposal Act, 1887	The whole
Act No. 37 of 1889	Crown Lands and Quitrent Relief Act, 1889	The whole
Act No. 16 of 1890	Transfer Facilitation Act, 1890	The whole
Act No. 14 of 1891	The Crown Lands Disposal Extension Act, 1891	The whole
Act No. 26 of 1891	Crown Lands Leasing Act, 1891	The whole
Act No. 23 of 1892	The Partition Transfer Facilitation Act, 1892	The whole
Act No. 30 of 1893	Transfer Facilitation Amendment Act, 1893	The whole
Act No. 40 of 1895	Crown Lands Disposal Act and Leasing Acts Amendment Act, 1895	The whole
Act No. 46 of 1899	Agricultural Lands Further Amendment Act, 1899	The whole
Act No. 47 of 1899	The Elliot European Communal Lands Act, 1899	The whole
Act No. 13 of 1906	The Outspans Act, 1906	Section 4
Act No. 41 of 1908	The Elliot Commonages Subdivision Act, 1908	The whole
Act No. 42 of 1908	Farms Selection Act, 1908	The whole
	Natal	
Act No. 44 of 1904	Agricultural Development Act, 1904	The whole
Act No. 28 of 1907	Amendment of the Agricultural Development Act, 1904	The whole
Act No. 23 of 1910	To enable purchasers of Crown lands to suspend payment of the instalments of purchase price upon suitable terms	The whole
Act No. 27 of 1910	To make certain provisions with regard to the purchase and disposal of lands acquired for settlements	The whole
	Orange Free State	
Ordinance No. 34 of 1905	Crown Lands (small areas) Disposal Ordinance, 1905	The whole
Act No. 13 of 1908	Crown Land Disposal Act, 1908	The whole
Act No. 31 of 1909	Irrigation Settlements Act, 1909	The whole
	Transvaal	
Ordinance No. 45 of 1902	Settlers Ordinance, 1902	The whole
Ordinance No. 57 of 1903	Crown Land Disposal Ordinance, 1903	The whole
Ordinance No. 13 of 1906	Crown Land Disposal Amendment Ordinance, 1906	The whole
Act No. 37 of 1907	Land Settlement Act, 1907	The whole
Act No. 2 of 1911	Crown Land Disposal (Execution of Deeds) Act, 1911	The whole
Act No. 12 of 1912	Land Settlement Act, 1912	Section 47
Act No. 15 of 1912	Transvaal and Orange Free State Land Settlements Amendment Act, 1912	Sections 1, 2, 3, and 5
Act No. 26 of 1915	Persons on Active Service Relief Act, 1915	Section 2
Act No. 16 of 1916	Transvaal and Orange Free State Land Settlements Further Amendment Act, 1916	The whole
Act No. 1 of 1917	Gubenxa and Embokotwa Titles Amendment Act, 1917	The whole
Act No. 23 of 1917	Land Settlement Act Amendment Act, 1917	Sections 21 and 22
Act No. 6 of 1919	Crown Land Disposal (Cape of Good Hope) Amendment Act, 1919	The whole
Act No. 8 of 1922	Crown Lands Disposal Act (Cape) Amendment Act, 1922	The whole
Act No. 38 of 1922	Financial Adjustments Act, 1922	Section 4
Act No. 57 of 1934	Land Settlement (Amendment) Act, 1934	Section 21
Act No. 1 of 1952	State Lands Disposal Amendment Act, 1952	The whole

AMENDMENTS

Land Settlement Amendment Act, No. 66 of 1963
State Land Disposal Amendment Act, No. 28 of 1968
State Land Disposal Amendment Act, No. 26 of 1976
State Land Disposal Amendment Act, No. 66 of 1982
Republic of South Africa Constitution Act, No. 110 of 1983
State Land Disposal Amendment Act, No. 47 of 1987
State Land Disposal Amendment Act, No. 19 of 1988
Legal Succession to the South African Transport Services Act, No. 9 of 1989
General Law Second Amendment Act, No. 108 of 1993
Land Administration Act, No. 2 of 1995