

# STATE LAND DISPOSAL ACT 48 OF 1961

(Afrikaans text signed by the State President)

*[Assented To: 19 June 1961]*  
*[Commencement Date: 28 June 1961]*

## as amended by:

Land Settlement Amendment Act 66 of 1963  
State Land Disposal Amendment Act 28 of 1968  
State Land Disposal Amendment Act 26 of 1976  
State Land Disposal Amendment Act 66 of 1982  
Republic of South Africa Constitution Act 110 of 1983  
State Land Disposal Amendment Act 47 of 1987  
State Land Disposal Amendment Act 19 of 1988  
Legal Succession to the South African Transport Services Act 9 of 1989  
General Law Second Amendment Act 108 of 1993  
Proclamation 41 / GG 15578 / 1994-03-25  
Proclamation 67 / GG 16511 / 1995-09-07

### Note:

The Act has been amended by Proc. 67/95 by the substitution for the words "State President", wherever they occur, of the word "President"

## 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.**

### ARRANGEMENT OF SECTIONS

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## Schedule - Laws repealed

### 1. Definitions

In this Act, unless the context otherwise indicates -

**“board”** .....

[Definition of “board” inserted by s. 1 of Act 66/82 and deleted by s. 7 of Act 108/93]

**“Minister”** means the Minister of Land Affairs in the National Government;  
[Definition of “Minister” substituted by s. 1 of Act 66/82, s. 1 of Act 47/87 and s. 1 of Act 19/88, amended by s. 36 of Act 9/89 and substituted by s. 7 of Act 108/93, Proc. R41/94 and Proc. 67/95]

**“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 of Act 66/82]

[S. 1 substituted by s. 1 of Act 28/68]

### 2. President may dispose of certain State land

(1) Subject to the provisions of sub-sections (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 of Act 28/68 and amended by s. 1 of Act 26/76]

(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 of Act 28/68]

- (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 of Act 28/68]

- (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 of Act 28/68]

- (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 of Act 28/68]

- (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 66/82]

## **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 28/68 and substituted by s. 2 of Act 47/87]

## **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 66/82]

## **2bis. ....**

[S. 2bis inserted by s. 18 of Act 66/63 and repealed by s. 2 of Act 26/76]

## **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 28/68]

## **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 of Act 108/93]

- (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 of Act 108/93]

- (3) .....

[Sub-s. (3) deleted by s. 8 of Act 108/93]

[S. 6 amended by s. 5 of Act 28/68 and substituted by s. 4 of Act 66/82]

## 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 Proc. 67/95]

- (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 66/82]

[Sub-s. (1) substituted by s. 3 of Act 26/76]

- (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 108/93]

## **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**

	<b>No. and Year of Law</b>	<b>Territory and Title or Subject</b>	<b>Extent of Repeal</b>
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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 five.
	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 four.
	Act No. 41 of 1908	“The Elliot Commonages Sub- division Act, 1908”	The whole.
Act No. 42 of 1908	“Farms Selection Act, 1908”	The whole.	
NATAL	Act No. 44 of 1904	“The 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.
UNION	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 forty- seven.
	Act No. 15 of 1912	“Transvaal and Orange Free State Land Settlements Amendment Act, 1912”	Sections one, two, three and five.
	Act No. 26 of 1915	“Persons on Active Service Relief Act, 1915”	Section two.
	Act No. 16 of 1916	“Transvaal and Orange Free State Land Settlements Act 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 twenty-one and twenty-two.
	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 four.
	Act No. 57 of 1934	“Land Settlement (Amendment) Act, 1934”	Section twenty- one.
	Act No. 1 of 1952	“State Lands Disposal Amendment Act, 1952”	The whole.