

(16 May 2011 – to date)

[This is the **current** version and applies as from **16 May 2011**, i.e. the date of commencement of the Rural Development and Land Reform General Amendment Act 4 of 2011 – **to date**]

## **STATE LAND DISPOSAL ACT 48 OF 1961**

*Government Notice 135 in Government Gazette 26, dated 28 June 1961. Commencement date: 28 June 1961.*

**as amended by:**

*Land Settlement Amendment Act 66 of 1963 - Government Notice 897 in Government Gazette 532, dated 26 June 1963. Commencement date: 26 June 1963.*

*State Land Disposal Amendment Act 28 of 1968 - Government Notice 534 in Government Gazette 2032, dated 3 April 1968. Commencement date: 3 April 1968.*

*State Land Disposal Amendment Act 26 of 1976 - Government Notice 487 in Government Gazette 5042, dated 31 March 1976. Commencement date: 31 March 1976.*

*State Land Disposal Amendment Act 66 of 1982 - Government Notice 898 in Government Gazette 8188, dated 5 May 1982. Commencement date: 30 July 1982. [Proc. 130, Gazette No. 8319, dated 30 July 1982].*

*State Land Disposal Amendment Act 47 of 1987 - Government Notice 267 in Government Gazette 10913, dated 16 September 1987. Commencement date: 16 September 1987.*

*State Land Disposal Amendment Act 19 of 1988 - Government Notice 534 in Government Gazette 11208, dated 23 March 1988. Commencement date: 23 March 1988.*

*Legal Succession to the South African Transport Services Act 9 of 1989- Government Notice 428 in Government Gazette 11743, dated 15 March 1989. Commencement date: 6 October 1989. [Proc. 178, Gazette No. 12117, dated 6 October 1989].*

*General Law Second Amendment Act 108 of 1993 - Government Notice 1277 in Government Gazette 14976, dated 20 July 1993. Commencement date: 1 August 1993. [Proc. R66, Gazette No. 15027, dated 1 August 1993].*

*Proclamation 41 in Government Gazette 15578, dated 25 March 1994. Commencement date: 1 April 1994.*

*Proclamation 67 in Government Gazette 16511, dated 7 September 1995. Commencement date: 7 September 1995.*

Prepared by:

In partnership with:

*Rural Development and Land Reform General Amendment Act 4 of 2011 - Government Notice 427 in  
Government Gazette 34300, dated 16 May 2011. Commencement date: 16 May 2011.*

*Publisher's Note:*

*The Act has been amended by Proclamation 67 of 1995 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.**

*(Afrikaans text signed by the State President.)*

*(Assented to 19<sup>th</sup> June, 1961.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Definitions.
  2. President may dispose of certain State land.
  - 2A. Powers of President in relation to certain rights of State in respect of private land
  - 2B. Disposal of State land in Foreshore, Cape Town
  - 2bis .....
  3. State land not subject to acquisitive prescription.
  4. ....
  5. Execution of documents in connection with disposal of State land.
  6. Assignment of powers and duties by President.
  7. Assignment of powers and duties by Minister.
  8. Regulations.
  - 8A. Operation of Act in relation to certain proclamations and regulations
  9. Repeal of laws, and provisions relating to certain disposals of State land prior to commencement of this Act.
  10. Short title.
- Schedule.

**1. Definitions.**

In this Act, unless the context otherwise indicates—

**"board"** .....

*(Definition of "board" inserted by section 1(b) of Act 66 of 1982)*

*(Definition of "board" deleted by section 7(1)(b) of Act 108 of 1993)*

**"Minister"** means the Minister of Public Works, but in relation to a provision of this Act which applies to, or is connected to any land transferred to the Minister of Rural Development and Land Reform in terms of paragraph 1(e) of Proclamation R.28 of 31 March 1992 or after 1 April 1992 in his name, means the latter Minister;

*(Definition of "Minister" substituted by section 1(a) of Act 66 of 1982)*

*(Definition of "Minister" substituted by section 1 of Act 47 of 1987)*

*(Definition of "Minister" substituted by section 1 of Act 19 of 1988)*

*(Definition of "Minister" amended by section 36 of Act 9 of 1989)*

*(Definition of "Minister" substituted by section 7(1)(a) of Act 108 of 1993)*

*(Definition of "Minister" substituted by Proclamation 41 of 1994)*

*(Definition of "Minister" substituted by Proclamation 67 of 1995)*

*(Definition of "Minister" substituted by section 3 of Act 4 of 2011)*

**"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 section 1(c) of Act 66 of 1982)*

*(Section 1 substituted by section 1 of Act 28 of 1968)*

## **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.

*(Section 2(2) substituted by section 2(a) of Act 28 of 1968)*

*(Section 2(2) amended by section 1 of Act 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.

*(Section 2(2A) inserted by section 2(b) of Act 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.

*(Section 2(2B) inserted by section 2(b) of Act 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.

*(Section 2(2C) inserted by section 2(b) of Act 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.

*(Section 2(2D) inserted by section 2(b) of Act 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) .....

*(Section 2(4) deleted by section 2 of Act 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 an time exercise an 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.

*(Section 2A inserted by section 3 of Act 28 of 1968)*

*(Section 2A substituted by section 2 of Act 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.

*(Section 2B inserted by section 3 of Act 66 of 1982)*

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

*(Section 2bis inserted by section 18 of Act 66 of 1963)*

*(Section 2bis repealed by section 2 of Act 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.** .....

*(Section 4 repealed by section 4 of Act 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 sub-section (1), any lease mentioned in paragraph (b) of the said sub-section 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.

*(Section 6(1) substituted by section 8(a) of Act 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.

*(Section 6(2) substituted by section 8(b) of Act 108 of 1993)*

- (3) .....

*(Section 6(3) deleted by section 8(c) of Act 108 of 1993)*

*(Section 6 amended by section 5 of Act 28 of 1968)*

*(Section 6 substituted by section 4 of Act 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

*(Section 7(1)(a) substituted by Proclamation 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.

*(Section 7(1)(b) substituted by section 5 of Act 66 of 1982)*

*(Section 7(1) substituted by section 3 of Act 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).

*(Section 8A inserted by section 9(1) of Act 108 of 1993, which amendment is deemed to have come into operation on 1 April 1992)*

## **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.**

No. and Year of Law.	Territory and Title or Subject.	Extent of Repeal.
<b>CAPE OF GOOD HOPE.</b>		
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 Subdivision Act, 1908".	The whole.
Act No. 42 of 1908.	"Farms Selection Act, 1908".	The whole.
<b>NATAL.</b>		
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.
<b>ORANGE FREE STATE</b>		
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.
<b>TRANSVAAL.</b>		
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.
<b>UNION.</b>		
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.	Gubexa 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.