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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1214.

30 May 1985

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

No. 54 of 1985: Development Trust and Land Amendment Act, 1985.

No. 1214.

30 Mei 1985

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 54 van 1985: Wysigingswet op die Ontwikkelings-trust en Grond, 1985.

Act No. 54, 1985

DEVELOPMENT TRUST AND LAND AMENDMENT ACT, 1985

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Development Trust and Land Act, 1936, so as to further regulate the excision of land from released and scheduled areas and the substitution therefor of equivalent land; to extend the purposes for which the South African Development Trust Fund may be applied; to further regulate the acquisition of land and the alienation of Trust land by the South African Development Trust; and to delete a certain restriction on the presence of a person other than a Black upon land in any scheduled Black area or released area; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 7 May 1985.)

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

Amendment of section 2 of Act 18 of 1936, as amended by section 1 of Act 17 of 1939, section 28 of Act 56 of 1949, section 1 of Act 73 of 1956, section 15 of Act 42 of 1964, section 2 of Act 7 of 1973 and section 5 of Act 70 of 1974.

1. Section 2 of the Development Trust and Land Act, 1936 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (2) of the following subsection: 5

“(2A) The proviso to subsection (2) shall not apply in respect of land—
 (a) acquired in order to comply with paragraph (a) of the said proviso in the case where the State President decides not to continue with the proposed declaration or excision or a proposed deletion or excision in terms of section 3; 10
 (b) referred to in section 10 (2) (c) and (d) situated outside an area defined by resolution of Parliament for the purpose of a released area.” 15

Amendment of section 3 of Act 18 of 1936, as substituted by section 2 of Act 17 of 1939.

2. Section 3 of the principal Act is hereby amended—

(a) by the substitution for the words preceding the proviso to paragraph (b) of the following words:
 “with the approval of Parliament signified by resolution **[of both Houses]** amend the said Schedule 20 by deleting therefrom any reference to land defined in such proclamation **[which is the property of the Trust or of a Black]** or excising from land referred to therein **[which is the property of the Trust or of a Black]** any portion thereof so described.”; and 25

(b) by the addition of the following subsection, the existing section becoming subsection (1):

“(2) The proviso to subsection (1) (b) shall not apply in respect of land in the case where the Trust with a view to the deletion or excision of such land has ac- 30

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ALGEMENE VERDUIDELIKENDE NOTA:

[**]** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Ontwikkelingstrust en Grond Wet, 1936, ten einde die wegname van grond uit oopgestelde en afgesonderde gebiede en die vervanging daarvan deur vergelykbare grond verder te reël; die doeleindes waarvoor die Suid-Afrikaanse Ontwikkelingstrustfonds aangewend kan word, uit te brei; die verkryging van grond en die vervreemding van Trust-grond deur die Suid-Afrikaanse Ontwikkelingstrust verder te reël; en 'n sekere beperking op die teenwoordigheid van 'n ander persoon as 'n Swarte op grond in 'n afgesonderde Swart gebied of 'n oopgestelde gebied op te hef; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 7 Mei 1985.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 2 van die Ontwikkelingstrust en Grond Wet, 1936 (hieronder die Hoofwet genoem), word hierby gewysig deur na 5 subartikel (2) die volgende subartikel in te voeg:

“(2A) Die voorbehoudsbepaling by subartikel (2) is nie van toepassing nie ten opsigte van grond—

- (a) wat verkry is ten einde te voldoen aan paragraaf (a) van genoemde voorbehoudsbepaling in die geval waar die Staatspresident besluit om nie met die beoogde verklaring of wegname of 'n beoogde weglating of wegname ingevolge artikel 3 voort te gaan nie;
- (b) bedoel in artikel 10 (2) (c) en (d) geleë buite 'n gebied wat by besluit van die Parlement vir die doel van 'n oopgestelde gebied omskryf is.”

Wysiging van artikel 2 van Wet 18 van 1936, soos gewysig deur artikel 1 van Wet 17 van 1939, artikel 28 van Wet 56 van 1949, artikel 1 van Wet 73 van 1956, artikel 15 van Wet 42 van 1964, artikel 2 van Wet 7 van 1973 en artikel 5 van Wet 70 van 1974.

2. Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur die woorde wat die voorbehoudsbepaling by paragraaf (b) voorafgaan deur die volgende woorde te vervang:
- “met goedkeuring van die Parlement by besluit [van beide Huise] genoemde Bylae wysig deur 'n verwysing na grond in bedoelde proklamasie omskryf [wat die eiendom is van die Trust of van 'n Swarte] daaruit weg te laat of uit grond daarin vermeld [wat die eiendom is van die Trust of van 'n Swarte] 'n aldus omskrewe gedeelte weg te neem.”; en
- (b) deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:
- “(2) Die voorbehoudsbepaling by subartikel (1) (b) is nie van toepassing nie ten opsigte van grond in die geval waar die Trust met die oog op die weglating

Wysiging van artikel 3 van Wet 18 van 1936, soos vervang deur artikel 2 van Wet 17 van 1939.

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quired land referred to in subparagraph (i) of the said proviso, and the latter land has become part of any State the territory of which formerly formed part of the Republic.”.

Amendment of section 9 of Act 18 of 1936, as amended by section 27 of Act 17 of 1938, section 4 of Act 17 of 1939, section 21 of Act 46 of 1945, section 30 of Act 56 of 1949, section 2 of Act 41 of 1958, section 30 of Act 46 of 1968, section 49 of Act 92 of 1969 and section 1 of Act 19 of 1970.

3. (1) Section 9 of the principal Act is hereby amended by the substitution for paragraph (fA) of subsection (1) of the following paragraph:

“(fA) to acquire shares for the Trust in or to provide loan capital until shares are issued to a body which is established or is deemed to be established by or under the Promotion of the Economic Development of National States Act, 1968, or such other body as the Trustee may determine, and to defray expenses incurred by such body in connection with the exercise of powers conferred upon it by or under that Act;”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1984.

Amendment of section 10 of Act 18 of 1936, as amended by section 5 of Act 17 of 1939, section 11 of Act 46 of 1962, section 2 of Act 19 of 1970, section 3 of Act 7 of 1973, section 6 of Act 4 of 1976, section 1 of Act 110 of 1976, section 2 of Act 16 of 1979 and section 4 of Act 83 of 1984.

4. Section 10 of the principal Act is hereby amended—

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

“(2) No land may be acquired by the Trust other than land—

- (a) within a scheduled Black area; or
- (b) within a released area; or
- (c) adjoining land of which the Trust or a Black or the Minister or any other person in trust for a Black, a Black tribe or Black community is the registered owner, and which is situate in a scheduled Black area or in a released area; or
- (d) adjoining land acquired by and transferred to the Trust under paragraph (c); or
- (e) forming part of any farming on land which has been or is acquired by the Trust under paragraph (a), (b), (c) or (d).”;

(b) by the insertion after subsection (2)bis of the following subsection:

“(2)ter Notwithstanding anything to the contrary in this Act contained, any land referred to in subsection (2) (e) shall be registered in the name of the State, which may dispose thereof in its discretion.”; and

(c) by the addition to subsection (3) of the following paragraphs:

- “(f) land referred to in section 3 (2) which became part of any State the territory of which formerly formed part of the Republic, shall from the date of the deletion or excision concerned not be taken into account;
- (g) land referred to in subsection (2) (e) shall not be taken into account;
- (h) land referred to in section 18 (3) (b) shall notwithstanding the provisions of paragraph (a) be deemed to be held by the Trust if such land is situate within an area referred to in the said section or any Black area, and has not been excised therefrom in terms of section 2 or 3 of this Act or in terms of any other law.”.

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of wegname van daardie grond, grond bedoel in subparagraaf (i) van genoemde voorbehoudsbepaling verkry het, en laasgenoemde grond deel geword het van 'n Staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het."

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3. (1) Artikel 9 van die Hoofwet word hierby gewysig deur paragraaf (fA) van subartikel (1) deur die volgende paragraaf te vervang:

10 "(fA) om aandeel vir die Trust te verkry in of om leningskapitaal te verskaf totdat aandeel uitgereik is aan 'n liggaam wat ingestel is of wat geag word ingestel te wees deur of kragtens die Wet op die Bevordering van die Ekonomiese Ontwikkeling van Nasionale State, 1968, of die ander liggaam wat die Trustee bepaal, en om uitgawes te bestry wat deur sodanige liggaam opgeloop word in verband met die uitoefening van bevoegdhede aan hom deur of kragtens daardie Wet verleen;"

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(2) Subartikel (1) word geag op 1 April 1984 in werking te getree het.

Wysiging van artikel 9 van Wet 18 van 1936, soos gewysig deur artikel 27 van Wet 17 van 1938, artikel 4 van Wet 17 van 1939, artikel 21 van Wet 46 van 1945, artikel 30 van Wet 56 van 1949, artikel 2 van Wet 41 van 1958, artikel 30 van Wet 46 van 1968, artikel 49 van Wet 92 van 1969 en artikel 1 van Wet 19 van 1970.

20 4. Artikel 10 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

25 "(2) Geen ander grond mag deur die Trust verkry word nie as grond—

(a) in 'n afgesonderde Swart gebied; of

(b) in 'n oopgestelde gebied; of

30 (c) wat grens aan grond waarvan die Trust of 'n Swarte of die Minister of enige ander persoon in trust vir 'n Swarte, 'n Swart stam of 'n Swart gemeenskap die geregistreerde eienaar is, en wat geleë is in 'n afgesonderde Swart gebied of in 'n oopgestelde gebied; of

(d) wat grens aan grond wat deur die Trust kragtens paragraaf (c) verkry is en aan die Trust oorgedra is; of

35 (e) wat deel uitmaak van 'n boerdery op grond wat deur die Trust kragtens paragraaf (a), (b), (c) of (d) verkry is of word."

40 (b) deur na subartikel (2)bis die volgende subartikel in te voeg:

"(2)ter Ondanks andersluidende bepalings van hierdie Wet, word grond bedoel in subartikel (2) (e) op naam van die Staat geregistreer, wat na goëddunke daarvoor kan beskik;" en

45 (c) deur by subartikel (3) die volgende paragrawe te voeg:

"(f) word grond bedoel in artikel 3 (2) wat deel geword het van 'n Staat waarvan die grondgebied voorheen deel van die Republiek uitgemaak het, vanaf die datum van die betrokke weglating of wegname nie bygereken nie;

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(g) word grond bedoel in subartikel (2) (e) nie bygereken nie;

55 (h) word grond bedoel in artikel 18 (3) (b) ondanks die bepalings van paragraaf (a) geag deur die Trust besit te word indien sodanige grond binne 'n gebied in genoemde artikel bedoel of 'n Swart gebied geleë is, en nie ingevolge artikel 2 of 3 van hierdie Wet of ingevolge enige ander wet daaruit wegge-
neem is nie."

Wysiging van artikel 10 van Wet 18 van 1936, soos gewysig deur artikel 5 van Wet 17 van 1939, artikel 11 van Wet 46 van 1962, artikel 2 van Wet 19 van 1970, artikel 3 van Wet 7 van 1973, artikel 6 van Wet 4 van 1976, artikel 1 van Wet 110 van 1976, artikel 2 van Wet 16 van 1979 en artikel 4 van Wet 83 van 1984.

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Amendment of section 18 of Act 18 of 1936, as amended by section 8 of Act 17 of 1939, section 17 of Act 42 of 1964, section 19 of Act 55 of 1965, section 4 of Act 7 of 1973 and section 31 of Act 63 of 1975.

5. Section 18 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) (a) The Trustee may for the support, advantage or well-being of Blacks or purposes connected therewith, lease, and with the approval of Parliament signified by **[resolutions of both Houses]** resolution, grant, sell, exchange or otherwise dispose of land, the property of the Trust, to persons other than Blacks. 5
- (b) Approval of Parliament in terms of paragraph (a) shall not be required if the grant, sale, exchange or disposal takes place in terms of an agreement with the government of any area which is or was in terms of any law a self-governing territory within the Republic.”. 10

Amendment of section 24 of Act 18 of 1936, as amended by section 3 of Act 63 of 1966.

6. Section 24 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 15

- “(1) Save with the written permission of any person acting under the authority of the Trustee or in accordance with the regulations no person other than a Black shall reside **[or be]** or carry on any profession, business, trade or calling upon land in any scheduled Black area or released area of which the Trust or a Black is the registered owner or which is held by any religious denomination or society: Provided that no person who at the commencement of this Act is lawfully residing or carrying on a profession, business, trade or calling upon such land or who is the holder of the mineral rights or of a prospecting licence in respect of any such land shall, by reason merely of the provisions of this subsection, be prohibited from continuing his residence, profession, business, trade or calling or from prospecting and mining upon such land or otherwise exploiting such mineral rights as the case may be: Provided, further, that nothing in this section contained shall prohibit any person from carrying on upon such land or otherwise exploiting such mineral rights, as the case may be: Provided further that nothing in this section contained shall prohibit any person from carrying on upon land situate in the Province of the Transvaal which at the commencement of this Act is a proclaimed public digging for precious or base metals or is land declared open to public prospecting for precious and base metals, while it remains so proclaimed or open, any profession, trade or calling in connection with prospecting, mining or digging on that land, or from residing **[or being]** upon that land for the purpose of so carrying on thereon that profession, trade or calling.”. 20 25 30 35 40

Short title.

7. This Act shall be called the Development Trust and Land Amendment Act, 1985. 45

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5. Artikel 18 van die Hoofwet word hierby gewysig deur sub-artikel (3) deur die volgende subartikel te vervang:

- 5 “(3) (a) Die Trustee kan vir die onderhoud, voordeel of welsyn van Swartes of vir doeleindes daarmee in verband staande, grond, die eiendom van die Trust, aan ander persone as Swartes verhuur en, met goedkeuring van die Parlement by **[besluite van beide Huise]** besluit, toeken, verkoop, verruil of op 'n ander wyse daarvoor beskik.
- 10 (b) Goedkeuring van die Parlement ingevolge paragraaf (a) word nie vereis nie indien die toekenning, verkoping, verruiling of beskikking geskied ingevolge 'n ooreenkoms met die regering van 'n gebied wat ingevolge die een of ander wet 'n selfregerende gebied binne die Republiek is of was.”.
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Wysiging van artikel 18 van Wet 18 van 1936, soos gewysig deur artikel 8 van Wet 17 van 1939, artikel 17 van Wet 42 van 1964, artikel 19 van Wet 55 van 1965, artikel 4 van Wet 7 van 1973 en artikel 31 van Wet 63 van 1975.

6. Artikel 24 van die Hoofwet word hierby gewysig deur sub-artikel (1) deur die volgende subartikel te vervang:

- 20 “(1) Behalwe met skriftelike verlof van iemand wat optree ingevolge magtiging van die Trustee of ooreenkomstig die regulasies mag geen ander persoon as 'n Swarte hom metterwóon vestig **[op, of wees op,]** of 'n professie, besigheid, ambag of beroep beoefen op grond in 'n afgesonderde Swart gebied of 'n oopgestelde gebied waarvan die Trust of 'n Swarte die geregistreerde eienaar is, of waarvan 'n kerkgenootskap of -vereniging die besitter is nie: Met dien verstande dat niemand wat by die inwerkingtreding van hierdie Wet wettiglik woonagtig is of 'n professie, besigheid, ambag of beroep beoefen op bedoelde grond of wat die besitter is van die minerale regte of van 'n prospekterlisensie ten opsigte van bedoelde grond, belet word slegs op grond van die
- 25 bepalings van hierdie subartikel, om sy verblyf, professie, besigheid, ambag of beroep voort te sit of om op bedoelde grond te prospekter of te myn of op ander wyse bedoelde mineraleregte te eksploiteer, na gelang van die geval, nie: Met dien verstande voorts dat die bepalinge van hierdie artikel niemand belet nie om op grond geleë in die provinsie Transvaal wat by die inwerkingtreding van hierdie Wet 'n geproklameerde openbare delwery is vir edele of onedele
- 30 metale, of grond is wat verklaar is oopgestel te wees vir prospektering deur die publiek vir edele en onedele metale, solank dit aldus geproklameer of oop bly, 'n professie, ambag of beroep te beoefen in verband met prospektering, myn of delf op daardie grond, of om op daardie grond hom metterwóon te vestig **[of te wees]** met die doel om daardie
- 35 professie, ambag of beroep daarop aldus te beoefen.”.
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- 45

Wysiging van artikel 24 van Wet 18 van 1936, soos gewysig deur artikel 3 van Wet 63 van 1966.

7. Hierdie Wet heet die Wysigingswet op die Ontwikkelings-trust en Grond, 1985.

Kort titel.

