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REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 530.

31 March 1989

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

No. 31 of 1989: Development Trust and Land Amendment Act, 1989.

No. 530.

31 Maart 1989

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

No. 31 van 1989: Wysigingswet op die Ontwikkelings-trust en Grond, 1989.

Act No. 31, 1989

DEVELOPMENT TRUST AND LAND AMENDMENT ACT, 1989

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 define released areas; to make new provision for the transfer of certain rights and obligations; to provide for the granting of rights of leasehold to persons other than Blacks; and to provide for the cancellation of certain restrictions upon the opening of township registers and for incidental matters.

*(English text signed by the acting State President.)
(Assented to 14 March 1989.)*

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, section 5 of Act 70 of 1974 and section 1 of Act 54 of 1985 5

1. Section 2 of the Development Trust and Land Act, 1936 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

“(1) The areas defined in the First Schedule to this Act, as they may from time to time be amended **[in accordance with the provisions of subsection (2)]**, shall, together with such land as may from time to time under **[subsection (3)]** this Act or by or under any other law be declared a released area and such land referred to in paragraphs (c) and (d) of subsection (2) of section *ten* as may from time to time be acquired by and transferred to 15 the Trust, be released areas:”;

(b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) if the land to which the declaration or excision relates is land which has been vested in or acquired by the Trust, such land shall become 20 State-owned land and the land so added shall **[be transferred by the State President to the Trust by deed of grant]** become Trust land; and”;

(c) by the substitution for paragraph (c) of subsection (3A) of the following paragraph: 25

“(c) Land so withdrawn shall become State-owned land, and the State-owned land so reserved shall **[be transferred by the State President to the Trust by deed of grant]** become Trust land.”.

WYSIGINGSWET OP DIE ONTWIKKELINGSTRUST EN GROND,
1989

Wet No. 31, 1989

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 oopgestelde gebiede verder te omskryf; nuwe voorsiening te maak vir die oordrag van sekere regte en verpligtings; voorsiening te maak vir die verlening van regte van huurpag aan ander persone as Swartes; en voorsiening te maak vir die opheffing van sekere beperkings by die opening van dorpsregisters en vir bykomstige aangeleenthede.

*(Engelse teks deur die waarnemende Staatspresident geteken.)
(Goedgekeur op 14 Maart 1989.)*

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

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, artikel 5 van Wet 70 van 1974 en artikel 1 van Wet 54 van 1985

1. Artikel 2 van die Ontwikkelingstrust en Grond Wet, 1936 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “ (1) Die gebiede in die Eerste Bylae van hierdie Wet omskryf, soos hulle van tyd tot tyd gewysig mog wees **[ooreenkomstig die bepalings van subartikel (2)]**, en ook grond wat van tyd tot tyd kragtens **[subartikel (3)]** hierdie Wet of by of kragtens enige ander wet 'n oopgestelde gebied verklaar mag word en grond vermeld in paragrafe (c) en (d) van subartikel (2) van artikel *tien* wat van tyd tot tyd verkry mag word deur en oorgedra mag word aan die Trust, is oopgestelde gebiede:”;
- (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
- “(b) indien die grond waarop die verklaring of wegname betrekking het grond is wat op die Trust oorgegaan het of deur die Trust verkry is, daardie grond **[Kroongrond]** Staatsgrond word en die aldus toegevoegde grond **[deur die Staatspresident deur toekenningsakte aan die Trust oorgedra]** Trustgrond word; en”; en
- (c) deur paragraaf (c) van subartikel (3A) deur die volgende paragraaf te vervang:
- “(c) Grond wat aldus onttrek is, word Staatsgrond, en die aldus afgesonderde Staatsgrond word **[deur die Staatspresident by toekenningsakte aan die Trust oorgedra]** Trustgrond.”.

Act No. 31, 1989

DEVELOPMENT TRUST AND LAND AMENDMENT ACT, 1989

Substitution of section 4bis of Act 18 of 1936, as inserted by section 7 of Act 46 of 1959, substituted by section 3 of Act 83 of 1984 and amended by section 4 of Act 57 of 1986

2. The following section is hereby substituted for section 4bis of the principal Act:

“Transfer of certain rights and obligations to self-governing territories

4bis. The State President may by proclamation in the *Gazette* direct that as from a date determined by him—

(a) any right or obligation of the Trustee or the Trust in respect of any land or other property of the Trust; or

(b) any right or obligation of the Trustee or the Trust in respect of land of which a Black person is the registered owner; or

(c) land which is registered in the name of the Minister or any other person in trust for a Black person, a Black tribe or a Black community,

and which is situated in an area which is or was in terms of any law a self-governing territory within the Republic shall, subject to the provisions of this Act and the conditions prescribed in such proclamation, vest in the government of such self-governing territory or a person or authority in the self-governing territory: Provided that land mentioned in paragraph (c) shall vest only in trust for the Black person, Black tribe or Black community concerned in such government, person or authority.”

Amendment of section 6 of Act 18 of 1936, as amended by section 3 of Act 17 of 1939 and section 2 of Act 73 of 1956

3. Section 6 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) all State-owned land within the scheduled Black areas, and all State-owned land within the released areas and within areas which have become or become released areas after the commencement of this Act in terms of section 2 (1) of this Act or any other law.”

Insertion of section 11B in Act 18 of 1936

4. The following section is hereby inserted in the principal Act after section 11A:

“Cancellation of restrictive conditions with the opening of township registers

11B. (1) Notwithstanding anything to the contrary contained in any law, the Minister may at his discretion, either before or after a register as contemplated in section 46 (1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), is opened, from time to time direct that any restriction in operation under any law, any servitude or any other condition in relation to the existence, use, occupation or development of a town or any land or part thereof set apart or deemed to have been established as a town in terms of section 30 of the Black Administration Act, 1927 (Act No. 38 of 1927), or to the subdivision of land for the establishment of a town, or which may prejudice the opening of the register in respect of that land, be suspended for any period, cancelled, or be modified in the manner and to the extent that the Minister may specify in that direction.

(2) The Minister shall within 30 days after a suspension, cancellation or modification contemplated in subsection (3)—

(a) notify the registrar of deeds in charge of the deeds registry concerned accordingly, and the registrar shall thereupon note that suspension, cancellation or modification in his registers and on the title deeds or other documents concerned;

(b) give notice thereof in the *Gazette*, and any person who has suffered any damages as a result of the suspension, cancellation or modification shall be entitled to compensation by the owner of the land

WYSIGINGSWET OP DIE ONTWIKKELINGSTRUST EN GROND,
1989

Wet No. 31, 1989

Vervanging van artikel 4bis van Wet 18 van 1936, soos ingevoeg deur artikel 7 van Wet 46 van 1959, vervang deur artikel 3 van Wet 83 van 1984 en gewysig deur artikel 4 van Wet 57 van 1986

2. Artikel 4bis van die Hoofwet word hierby deur die volgende artikel vervang:

5 "Oordrag van sekere regte en verpligtings aan selfregerende gebiede

4bis. Die Staatspresident kan by proklamasie in die *Staatskoerant* gelas dat vanaf 'n datum wat hy bepaal—

- 10 (a) enige reg of verpligting van die Trustee of die Trust ten opsigte van grond of ander eiendom van die Trust; of
- (b) enige reg of verpligting van die Trustee of die Trust ten opsigte van grond waarvan 'n Swart persoon die geregistreerde eienaar is; of
- 15 (c) grond wat op naam van die Minister of enige ander persoon geregistreer is in trust vir 'n Swart persoon, 'n Swart stam of 'n Swart gemeenskap,
- en wat geleë is in 'n gebied wat ingevolge die een of ander wet 'n selfregerende gebied binne die Republiek is of was, op die regering van so 'n selfregerende gebied of 'n persoon of instansie in die selfregerende gebied oorgaan, en wel onderworpe aan die bepalings van hierdie Wet en die voorwaardes wat in bedoelde proklamasie voorgeskryf word: Met dien verstande dat grond in paragraaf (c) vermeld slegs in trust vir die
- 20 betrokke Swart persoon, Swart stam of Swart gemeenskap op sodanige regering, persoon of instansie oorgaan."

25 Wysiging van artikel 6 van Wet 18 van 1936, soos gewysig deur artikel 3 van Wet 17 van 1939 en artikel 2 van Wet 73 van 1956

3. Artikel 6 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

- 30 "(b) alle Staatsgronde in die afgesonderde Swart gebiede en alle Staatsgronde in die oopgestelde gebiede en in gebiede wat na die inwerkingtreding van hierdie Wet ingevolge artikel 2 (1) van hierdie Wet of enige ander wet oopgestelde gebiede geword het of word."

Invoeging van artikel 11B in Wet 18 van 1936

4. Die volgende artikel word hierby in die Hoofwet na artikel 11A ingevoeg:

35 "Opheffing van beperkende voorwaardes by die opening van dorpsregisters

11B. (1) Ondanks andersluidende bepalings van die een of ander wet kan die Minister na goeddunke, of voor of na die opening van 'n register soos in artikel 46 (1) van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), beoog, van tyd tot tyd gelas dat 'n beperking wat kragtens 'n wetsbepaling geld, 'n serwituut of ander voorwaarde met betrekking tot die bestaan, gebruik, bewoning of ontwikkeling van 'n dorp op enige grond wat kragtens artikel 30 van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), as 'n dorp afgesonder is of geag word gestig te wees of tot die onderverdeling van grond vir die stigting van 'n dorp, of

40 wat die opening van die register met betrekking tot daardie grond mag benadeel, opgehef word vir 'n tydperk, of gekanselleer word, of op die wyse en in die mate gewysig word wat die Minister in daardie lasgewing vermeld.

45 (2) Die Minister moet binne 30 dae na 'n opheffing, kansellasië of wysiging in subartikel (1) beoog—

- 50 (a) die registrateur van aktes in bevel van die betrokke registrasiekantoor dienooreenkomstig in kennis stel, en die registrateur moet daarna daardie opheffing, kansellasië of wysiging in sy registers en op die betrokke transportaktes of ander stukke aanteken;
- 55 (b) kennis daarvan in die *Staatskoerant* gee, en enige persoon wat as gevolg van die opheffing, kansellasië of wysiging skade gely het, is geregtig om deur die eienaar van die grond in subartikel (1) bedoel

Act No. 31, 1989

DEVELOPMENT TRUST AND LAND AMENDMENT ACT, 1989

referred to in subsection (1) or the person who is authorized to develop the land for those damages to an amount agreed upon between the owner or developer of the land and such person, or failing agreement, in the case of a private owner or developer, to an amount determined by arbitration, and the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), shall *mutatis mutandis* apply in respect thereof, and where the said land is registered in the name of the Trust or vests in the Trust, such damages shall be compensated in terms of the provisions of the Expropriation Act, 1975 (Act No. 63 of 1975), as if such suspension, cancellation or modification were an appropriation of the rights of such person.”

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, section 31 of Act 63 of 1975 and section 5 of Act 54 of 1985

5. (1) Section 18 of the principal Act is hereby amended by the addition of the following subsection:

“(10) For the purposes of this section “lease” includes to grant a right of leasehold.”

(2) Subsection (1) of this section shall be deemed to have come into operation on 14 October 1983.

Short title and commencement

6. This Act shall be called the Development Trust and Land Amendment Act, 1989.

WYSIGINGSWET OP DIE ONTWIKKELINGSTRUST EN GROND,
1989

Wet No. 31, 1989

5 of die persoon wat gemagtig is om die grond te ontwikkel vir daardie
skade vergoed te word tot 'n bedrag waaromtrent die eienaar of
ontwikkelaar van die grond en sodanige persoon ooreenkom, of by
gebrek aan ooreenkoms, tot 'n bedrag wat deur arbitrasie vasgestel
word, en ten opsigte waarvan die bepalings van die Wet op
Arbitrasie, 1965 (Wet No. 42 van 1965), *mutatis mutandis* van
toepassing is, en waar genoemde grond in die naam van die Trust
geregistreer is of by die Trust berus, word sodanige skade vergoed
10 ingevolge die bepalings van die Onteieningswet, 1975 (Wet No. 63
van 1975), asof sodanige opheffing, kansellasië of wysiging 'n ont-
eiening is van die regte van sodanige persoon."

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, artikel 31 van Wet 63 van 1975 en artikel 5 van Wet 54 van 1985

15 5. (1) Artikel 18 van die Hoofwet word hierby gewysig deur die volgende
subartikel by te voeg:

"(10) By die toepassing van hierdie artikel beteken "verhuur" ook om 'n reg
van huurpag te verleen."

(2) Subartikel (1) van hierdie artikel word geag op 14 Oktober 1983 in werking te
20 getree het.

Kort titel en inwerkingtreding

6. Hierdie Wet heet die Wysigingswet op die Ontwikkelingstrust en Grond, 1989.

