

OFFICE OF THE PRESIDENT

No. 509

6 April 1995

NO. 2 OF 1995: LAND ADMINISTRATION ACT, 1995.

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

ACT

To provide for the delegation of powers and the assignment of the administration of laws regarding land matters to the provinces; to provide for the creation of uniform land legislation; and to provide for matters incidental thereto.

(English text signed by the President.)
(Assented to 27 March 1995.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates "Minister" means the Minister of Land Affairs;

"proclaimed area" means-

(a) any area of the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei;

(b) any area for which a legislative assembly was established in terms of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971); and

(c) any land or area which was referred to in section 25 of the Black Administration Act, 1927 (Act No. 38 of 1927), or section 21 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), and which is situated outside an area referred to in paragraph (a) or (b).

Delegation of powers and assignment of functions

2. (1) (a) The Minister may, either in general or in a particular case or in cases of a particular nature, in writing delegate to-

(i) a Premier or a member of the Executive Council of a province; or

(ii) any officer in the service of the national government or a local government body contemplated in section 1 of the Local Government Transition Act, 1993 (Act No. 209 of 1993), any power conferred upon him or her by or under a law regarding land matters.

(b) Any person to whom any power has been delegated under paragraph (a) shall exercise that power subject to the directions of the Minister.

(c) The Minister may at any time revoke in writing such delegation, and the delegation of any power shall not prevent the Minister from exercising that power himself or herself.

(d) The Premier or a member of the Executive Council of a province to whom any power has been delegated under paragraph (a)(i) may, subject to any directions contemplated in paragraph (b) and such further conditions and periods of time as he or she may consider necessary, in writing delegate any such power to-

(i) the Director-General of that province;

(ii) any officer in the service of the provincial government concerned.

(2) The President may, by proclamation in the Gazette-

(a) assign the administration of a law regarding land matters to a Premier of a province; or

(b) reassign the administration of a law assigned in terms of paragraph (a) to a Minister referred to in section 88 of the Constitution, either generally or to the extent specified in the proclamation, and subject to such conditions, amendments, adaptations, modifications and periods of time as the President may consider necessary.

(3) When the President assigns the administration of a law in terms of subsection (2), or at any time thereafter, and to the extent that he or she considers it necessary for the efficient carrying out of the assignment, he or she may-

(a) amend or adapt such law in order to regulate its application and interpretation;

(b) where the assignment does not relate to the whole of such law, repeal and re-enact, whether with or without an amendment or adaptation contemplated in paragraph (a), those of its provisions to which the assignment relates or to the extent that the assignment relates to them; and

(c) regulate any other matter necessary, in his or her opinion, as a result of the assignment, including matters relating to the transfer or secondment of persons (subject to sections 236 and 237 of the Constitution) and relating to the transfer of assets, liabilities, rights and obligations, including funds, to or from the national or a provincial government or any department of state, administration, force or other institution.

(4)(a) The transfer of any asset, liability, right or obligation as contemplated in subsection (3) shall be done subject to the provisions of the relevant applicable Exchequer Act.

(b) The transfer or secondment of persons as contemplated in subsection (3) shall be done after consultation with the Public Service Commission and the relevant provincial service commission, if applicable.

(5) The Premier of a province may, subject to such conditions and periods of time as he or she may consider necessary, in writing authorise-

(a) any member or members of the Executive Council of that province;

(b) any member or members of such Executive Council and the Director- General of that province jointly;

(c) the said Director-General;

(d) any officer in the service of the provincial government concerned;

(e) any local government body contemplated in section 1 of the Local Government Transition Act, 1993, to exercise or perform in general or in a particular case or in cases of a particular nature, any power, duty or function which the Premier is in terms of a proclamation under subsection (2) authorised to exercise or perform, except the power to make regulations.

(6) The provisions of section 10(5) and (5A) of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply mutatis mutandis to the administration of a law or any provision of any law assigned under subsection (2)(a) or reassigned to a Minister under subsection (2)(b).

Power of President in relation to certain laws

3.(1) In order to provide for the uniformity of laws in respect of land matters and land administration, the President may by proclamation in the Gazette-

- (a) repeal, amend or adapt any law applicable in a proclaimed area;
- (b) make new laws or declare existing laws applicable to a proclaimed area.

(2) When the President declares existing laws applicable as contemplated in subsection (1), he or she may-

- (a) amend such law in order to regulate its application in the relevant area; and
- (b) repeal or amend any law, or part thereof, that was in force in such area immediately prior to the commencement of the Constitution in order to regulate any matter which, in his or her opinion, is necessary to be regulated in consequence of such application.

(3) The provisions of this section shall lapse on 31 December 1996.

Tabling of list of proclamations

4. A list of proclamations issued by the President in terms of sections 2 and 3 shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such proclamation or any provision thereof, such proclamation or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such proclamation or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such proclamation or such provision before it so ceased to be of force and effect.

Short title

5. This Act shall be called the Land Administration Act, 1995.