

---

REPUBLIC OF SOUTH AFRICA

---

**PROVISION OF LAND AND  
ASSISTANCE AMENDMENT ACT**

---

REPUBLIEK VAN SUID-AFRIKA

---

**WYSIGINGSWET OP DIE  
BESKIKBAARSTELLING VAN  
GROND EN BYSTAND**

---

**No 58, 2008**

**GENERAL EXPLANATORY NOTE:**

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

\_\_\_\_\_                    Words underlined with a solid line indicate insertions in existing enactments.

---

---

# ACT

**To amend the Provision of Land and Assistance Act, 1993, so as to state the objects of the Act; to clarify and extend the application of the provisions on the acquisition, planning, development, improvement and disposal of property and the provision of financial assistance for land reform purposes; to provide for the maintenance of property for land reform purposes; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 126 of 1993, as amended by section 1 of Act 67 of 1995 and section 1 of Act 26 of 1998**

1. Section 1 of the Provision of Land and Assistance Act, 1993 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the insertion before the definition of “deeds registry” of the following definition:

“**‘agricultural enterprise’** includes an enterprise engaged in activities pertaining to agricultural production and plantation, livestock production, agricultural services, hunting, trapping and game propagation, forestry and logging, aquaculture and fishing and any property utilised to carry on that enterprise;” 10

(b) by the insertion after the definition of “deeds registry” of the following definition: 15

“**‘Department’** means the National Department responsible for Land Affairs;”

(c) by the insertion before the definition of “Minister” of the following definition:

“**‘enterprise’** means an undertaking engaged in production or distribution of goods or services not for the sole purpose of own consumption;” and 20

(d) by the insertion after the definition of “prescribed” of the following definition:

“**‘property’** includes movable or immovable, corporeal or incorporeal property and includes shares, rights, title or interest in or to a juristic person, other entity or a trust;”. 25

**Insertion of section 1A in Act 126 of 1993**

2. The following section is hereby inserted in the principal Act after section 1:

**“Objects of Act**

**1A.** The objects of this Act are to—

- (a) give effect to the land and related reform obligations of the State in terms of section 25 of the Constitution of the Republic of South Africa, 1996;
- (b) effect, promote, facilitate or support the maintenance, planning, sustainable use, development and improvement of property contemplated in this Act;
- (c) contribute to poverty alleviation; and
- (d) promote economic growth and the empowerment of historically disadvantaged persons.”.

**Amendment of section 9 of Act 126 of 1993, as amended by section 68 of Act 67 of 1995 and section 4 of Act 26 of 1998**

3. Section 9 of the principal Act is hereby amended by the repeal of subsection (8).

**Substitution of section 10 of Act 126 of 1993, as substituted by section 5 of Act 26 of 1998**

4. The following section is hereby substituted for section 10 of the principal Act:

**“Provision of property for land reform purposes**

- 10.** (1) The Minister may, from money appropriated by Parliament for the purpose of this Act—
- (a) acquire property; and
  - (b) on such conditions as he or she may determine—
    - (i) make available state land administered or controlled by him or her or made available to him or her;
    - (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose;
    - (iii) provide financial assistance by way of an advance, subsidy, grant or otherwise to any person for the acquisition, maintenance, planning, development or improvement of property and for capacity building, skills development, training and empowerment; or
    - (iv) in writing authorise the transfer of funds to—
      - (aa) a provincial government;
      - (bb) a municipality;
      - (cc) any other organ of state; or
      - (dd) any other person or body recognised by the Minister for such purposes,
 which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.
- (2) The laws governing land use, the subdivision or consolidation of land, or the establishment of townships, shall not apply to land contemplated in this Act unless the Minister directs otherwise in writing.
- (3) The Minister shall have all the rights, powers and duties arising from or incidental to anything contemplated in this section and, without detracting from the generality of the foregoing, may—

- (a) maintain property, including state land;
  - (b) conduct a business or other economic enterprise; or
  - (c) exercise the rights of a holder of shares or a right in or to a juristic person, other entity or trust, contemplated in subsection (1). 5
- (4) Despite section 14 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and the provisions of any other law to the contrary, the transfer of ownership of any property contemplated in this Act—
- (a) may be passed and registered directly from the owner of such property to a person to whom the Minister has disposed of such property; and 10
  - (b) shall be exempt from the payment of any transfer, stamp or other duty, fees of the deeds office or other charge.”. 15

**Insertion of section 10A in Act 126 of 1993**

5. The following section is hereby inserted in the principal Act after section 10: 15

**“Activities to be managed as separate unit**

**10A.** (1) The Department must account for the acquisition, management, disposal and leasing of property and the provision of financial assistance in terms of this Act through a trading entity established and operating in accordance with the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 20

(2) The trading entity referred to in terms of subsection (1), once established, must maintain separate and itemised financial accounts and accounting records in respect of each agricultural enterprise or separately administered portion of immovable property which it acquires, manages, disposes of, or leases.”. 25

**Substitution of section 11 of Act 126 of 1993, as inserted by section 6 of Act 26 of 1998**

6. The following section is hereby substituted for section 11 of the principal Act:

**“Minister’s power to dispose of [certain land] property** 30

**11.** The Minister may, on such terms and conditions as he or she may deem fit, for the purposes of this Act, sell, exchange, donate [or], lease, award or otherwise dispose of or encumber any [**land designated or acquired under**] property contemplated in this Act or, if [**the land**] such property is no longer required for the purposes of this Act, for any other purpose.”. 35

**Amendment of section 14 of Act 126 of 1993**

7. Section 14 of the principal Act is hereby amended by the addition of the following paragraph:

“(g) the matters contemplated in section 10.”. 40

**Substitution of section 16 of Act 126 of 1993, as substituted by section 10 of Act 26 of 1998**

8. The following section is hereby substituted for section 16 of the principal Act:

**“Short title**

**16.** This Act shall be called the Land Reform: Provision of Land and Assistance Act, 1993.”. 45

**Substitution of long title of Act 126 of 1993, as substituted by section 12 of Act 26 of 1998**

9. The following long title is hereby substituted for the long title of the principal Act:  
“**To provide for the designation of certain land; to regulate the subdivision of such land and the settlement of persons thereon; to provide for the [rendering of financial assistance for the acquisition of land and to secure tenure rights] acquisition, maintenance, planning, development, improvement and disposal of property and the provision of financial assistance for land reform purposes; and to provide for matters connected therewith.**” 5

**Short title** 10

10. This Act shall be called the Provision of Land and Assistance Amendment Act, 2008.

