



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Prys 20c Price
Oorsee 30c Overseas
POSVRY—POST FREE

Vol. 133]

KAAPSTAD, 9 JULIE 1976

CAPE TOWN, 9 JULY 1976

[No. 5204

DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1158.

9 Julie 1976.

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

No. 107 van 1976: Wet op die Kakamastrust, 1976.

No. 1158.

9 July 1976.

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

No. 107 of 1976: Kakamas Trust Act, 1976.

KAKAMAS TRUST ACT, 1976

Act No. 107, 1976

ACT

To abolish the Kakamas Board of Management; to establish a juristic person to take over the management and control of certain accumulated funds and other assets managed and controlled by the Kakamas Board of Management; to provide for the investment of such funds and other assets; to regulate the utilization of the income derived from such investments; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 24 June 1976.)*

WHEREAS the Synod of the Dutch Reformed Church in South Africa are the founders of the Kakamas Labour Colony; Preamble.

AND WHEREAS a board of management known as the Kakamas Board of Management was established by the constitution of the Kakamas Labour Colony published by Proclamation 123 of 1948, to manage and control the Kakamas Labour Colony on behalf of its founders;

AND WHEREAS the constitution of the Kakamas Labour Colony stipulates that all moneys, funds and property derived from the said Labour Colony shall be used by the said Board of Management for the benefit of the said Labour Colony only;

AND WHEREAS since the establishment of the said Board of Management the circumstances have changed to such an extent that the management and control of the said Labour Colony by that board have become unnecessary;

AND WHEREAS the settlers and plot-holders are in terms of the provisions of the said constitution entitled to obtain ownership of their erven and building plots, and with few exceptions have obtained such ownership;

AND WHEREAS the Commissioner and the Commission for Supervision and Control of the Dutch Reformed Church in South Africa are required to transfer ownership of their erven or building plots to the settlers and plot-holders who have not yet obtained ownership thereof;

AND WHEREAS the Kakamas Board of Management has accumulated funds and other assets at its disposal;

AND WHEREAS the founders of the Kakamas Labour Colony have resolved to cause such accumulated funds and other assets to be administered for the benefit of the inhabitants of the Kakamas Labour Colony by a board of trustees;

AND WHEREAS it is therefore expedient to abolish the Kakamas Board of Management and to establish a juristic person to take over the management and control of the said accumulated funds and other assets;

AND WHEREAS it is expedient to provide for incidental matters:

KAKAMAS TRUST ACT, 1976

Act No. 107, 1976

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

1. In this Act, unless inconsistent with the context—

Definitions.

- (i) "board" means the board of trustees referred to in section 2 (2); (ix)
- (ii) "building plot" means a building plot as defined in section 1 of the constitution; (i)
- (iii) "constitution" means the constitution of the Kakamas Labour Colony published by Proclamation 123 of 1948; (v)
- (iv) "erf" means an erf as defined in section 1 of the constitution; (ii)
- (v) "Kakamas Board of Management" means the Kakamas Board of Management established by section 3 (1) of the constitution; (iv)
- (vi) "Kakamas Labour Colony" means the Kakamas Labour Colony referred to in section 2 of the constitution; (iii)
- (vii) "plot-holder" means a plot-holder as defined in section 1 of the constitution; (vii)
- (viii) "settler" means a settler as defined in section 1 of the constitution; (vi)
- (ix) "trust" means the Kakamas Trust of the Dutch Reformed Church in South Africa established by section 2. (viii)

2. (1) There is hereby established a juristic person to be known as the Kakamas Trust of the Dutch Reformed Church in South Africa.

Establishment of the Kakamas Trust of the Dutch Reformed Church in South Africa.

(2) The affairs of the trust shall be managed and controlled by a board of trustees consisting of a serving minister and two serving members of the church council of each of the congregations of the Dutch Reformed Church in South Africa at any time situated within or partly within the Kakamas Labour Colony, designated for the purpose by the church council concerned.

(3) If the office of a member of the board becomes vacant, the church council which designated such member shall, subject to the provisions of subsection (2), as soon as practicable designate a person to fill the vacancy.

(4) Subject to the provisions of section 4 (2), no decision of the board shall be held to be invalid by reason only of the fact that when such decision was taken, a vacancy existed on the board.

3. (1) The board shall at its first meeting elect a chairman and a vice-chairman from among its members.

Chairman and vice-chairman of the board.

(2) If the office of the chairman or the vice-chairman becomes vacant before the expiration of his period of office, the board shall at its first meeting held after such vacancy has occurred, elect one of its number to fill such vacancy, and the member so elected shall be chairman or vice-chairman, as the case may be, for the unexpired portion of such period of office.

(3) When the chairman of the board is absent or unable to perform his functions as chairman of the board, the vice-chairman shall act as chairman, and the vice-chairman shall while so acting have all the powers and perform all the functions of the chairman.

(4) The chairman and the vice-chairman shall hold office for a period of one year but may be re-elected.

4. (1) A meeting of the board shall be held at a time and place to be determined by the chairman of the board: Provided that the board shall meet at least once every calendar year so that any period intervening between a meeting of the board in one calendar year and a meeting of the board in the first ensuing calendar year shall not exceed thirteen months.

Meetings and decisions of board.

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(2) A majority of all the members of the board shall form a quorum for any meeting of the board.

(3) In the event of the absence of both the chairman and the vice-chairman from any meeting of the board, the members of the board present at the meeting shall elect one of their number to preside at that meeting.

(4) The decision of a majority of the members of the board present at a meeting of the board shall be a decision of the board: Provided that in the event of an equality of votes the proposal in question shall lapse.

(5) A member of the board may not be present at or take part in the discussion of or cast his vote on a matter before the board in which he or his wife or a child of him or his wife has an interest.

5. A member of the board shall receive no remuneration or allowances in respect of his services as a member of the board.

A member of the board receives no remuneration.

6. As from the commencement of this Act—

- (a) the control of all assets which immediately prior to the said commencement vested in the Kakamas Board of Management, shall vest in the trust;
- (b) all rights, liabilities and obligations of the Kakamas Board of Management shall become rights, liabilities and obligations of the trust,

Passing of control of assets, and of rights, liabilities and obligations, to trust.

and a reference in any document to the Kakamas Board of Management shall be construed as a reference to the trust.

7. An erf, building plot or any other land situated within the Kakamas Labour Colony which prior to the commencement of this Act was not transferred in accordance with the applicable provisions of the constitution to a settler or plot-holder or any other person entitled thereto shall be transferred by the Commissioner and Commission for Supervision and Control of the Dutch Reformed Church in South Africa to such a settler, plot-holder or other person as if the constitution had not been repealed, and any costs incurred by the transferor in connection with any transfer in terms of this section, shall be paid out of the income referred to in section 10 or, failing such income, out of moneys which become available to the board pursuant to the provisions of this Act.

Transfer of erf, building plots and other land.

8. (1) The board shall open an account with a commercial bank registered as such in terms of the Banks Act, 1965 (Act No. 23 of 1965), and shall deposit in that account all moneys which become available to the board pursuant to the provisions of this Act.

Accounts and auditing.

(2) The board shall keep a proper record of all the financial transactions of the board and of grants made by the board in terms of section 10 and shall as soon as possible after the end of each financial year (which shall terminate on 31 March in each year) prepare accounts of its revenue and expenditure for such year and a balance sheet of its assets and liabilities as at 31 March.

(3) The books, statements of account and balance sheet of the board shall be audited annually by a person registered as an accountant and auditor under the provisions of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), and a copy of the auditor's report shall be furnished to the church council of each of the congregations referred to in section 2 (2).

(4) Any costs incurred in connection with any auditing contemplated in subsection (3) as well as any expenditure incurred by the board in the performance of its functions shall be paid out of the income referred to in section 10 or, failing such income, out of moneys which become available to the board pursuant to the provisions of this Act.

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9. The board shall, subject to the provisions of sections 7, 8 (4) and 10, invest all moneys deposited in the banking account referred to in section 8, in one or more of the following forms of security, namely—

Board to invest moneys.

- (a) against a first mortgage of immovable property;
- (b) in stock of the Government of the Republic;
- (c) in stock of a municipal institution in the Republic;
- (d) on fixed deposit with a building society registered otherwise than provisionally under the Building Societies Act, 1965 (Act No. 24 of 1965); or
- (e) on fixed deposit with a banking institution registered otherwise than provisionally under the Banks Act, 1965 (Act No. 23 of 1965).

10. The income derived from the investments contemplated in section 9 shall, subject to the provisions of sections 7 and 8 (4), be utilized by the board for charitable purposes and missionary work within the Kakamas Labour Colony and for the grant of loans and the award of bursaries to children of members of any congregation referred to in section 2 (2), so as to enable such children to study at universities or university colleges or other institutions of higher education within or outside the Republic: Provided that any part of such income not utilized by the board in any financial year for any of the said purposes or as contemplated in section 7 or 8 (4), shall be invested by the board as prescribed in section 9.

Utilization of income from investments.

11. (1) The board may lay down rules for the proper control and conduct of its affairs.

Rules of board.

(2) A rule of the board shall not be amended, substituted or withdrawn unless at least two-thirds of the members of the board present at a meeting convened for the purpose of considering such amendment, substitution or withdrawal, have voted in favour thereof.

12. Proclamation 123 of 1948 is hereby repealed.

Repeal of Proclamation 123 of 1948.

13. This Act shall be called the Kakamas Trust Act, 1976, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.