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ACT

To empower the Administrator of a province to alter, suspend or remove certain restrictions and obligations in respect of land in the province; to repeal the Removal of Restrictions in Townships Act, 1946; to validate certain proclamations of Administrators; and to provide for incidental matters.

*(Afrikaans text signed by the Acting State President.)
(Assented to 19th June, 1967.)*

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

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) "Administrator" means the Administrator of a province acting with the consent of the Executive Committee; (i)
 - (ii) "local authority" means an institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (v)
 - (iii) "Minister" means the Minister of Community Development; (iv)
 - (iv) "provincial secretary" means the provincial secretary of a province or any officer acting on his behalf; (vi)
 - (v) "township" means a township as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937); (ii)
 - (vi) "townships board" means—
 - (a) in relation to land in the province of the Cape of Good Hope, the Townships Board constituted under section 2 of the Townships Ordinance, 1934 (Ordinance No. 33 of 1934), of that province;
 - (b) in relation to land in the province of the Transvaal, the Townships Board established under section 3 of the Town-planning and Townships Ordinance, 1965 (Ordinance No. 25 of 1965), of that province;
 - (c) in relation to land in the province of the Orange Free State, the Townships Board constituted under section 4 of the Townships Ordinance 1947 (Ordinance No. 20 of 1947), of that province;
 - (d) in relation to land in the province of Natal—
 - (i) the Private Townships Board established by section 8 of the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949), of that province; or
 - (ii) the Town and Regional Planning Commission established by section 2 of the Town Planning Ordinance, 1949, of that province.
 - (iii)
2. (1) Whenever the Administrator of a province in which the land in question is situate, is satisfied—
 - (a) that it is desirable to do so in the interest of the development of any township or in the interest of any area, whether it is situate in an urban area or not, or in the public interest; or
 - (b) that the land in question is required—
 - (i) for ecclesiastical purposes by the owner or purchaser thereof; or
 - (ii) for public purposes by the State or a local authority; or

Alteration, suspension or removal of restrictions or obligations in respect of land by the Administrator.

- (iii) for the use or erection of any building by the State or a local authority; or
- (iv) for purposes incidental to any purpose mentioned in subparagraphs (i) to (iii), inclusive,

he may, subject to the provisions of this Act, of his own accord or on application of any person in terms of section 3, by proclamation in the *Official Gazette* of the province, alter, suspend or remove, either permanently or for a period specified in such proclamation, and either unconditionally or subject to any condition so specified, any restriction or obligation which is binding on the owner of the land by virtue of—

- (aa) a restrictive condition or servitude registered against the title deed of the land; or
- (bb) a provision of a law relating to the establishment of townships or to town planning; or
- (cc) a provision of a by-law or of a regulation or of a townplanning scheme; or
- (dd) a provision of a townplanning scheme and a restrictive condition or servitude registered against the title deed of the land; or
- (ee) a provision of a townplanning scheme and a provision of a law relating to the establishment of townships or to town planning,

and which relates to—

- (aaa) the subdivision of the land; or
- (bbb) the purpose for which the land may be used; or
- (ccc) the requirements to be complied with or to be observed in connection with the erection of buildings or the use of the land.

(2) The provisions of subsection (1) shall not apply in respect of any condition of title affecting rights to minerals or any condition imposed under the provisions of section 5 (3) of the Townships Amendment Act, 1908 (Act No. 34 of 1908), of the Transvaal or of section 16 (3) of the Orange Free State Metals Mining Act, 1936 (Act No. 13 of 1936), or in respect of any condition specifically prohibiting or restricting the sale or supply of intoxicating liquor or the sale, lease or occupation of any land to or by a non-white person, except in so far as such condition relates to the occupation of land which is used or is intended to be used for public purposes by the State or a local authority.

(3) When a restriction or obligation which is binding on the owner of any land by virtue of a town-planning scheme, is altered in terms of subsection (1), the provisions of any law on townplanning which is in force in the province in which the land is situate and which relates to the payment of a development contribution, as contemplated in that law, shall apply as if such alteration were an alteration of the townplanning scheme in terms of that law.

(4) Before the Administrator issues any proclamation under this section of his own accord in any case in which the rights of any person may be adversely affected without such person's consent, the Administrator shall—

- (a) if the land concerned is situate in the area of a local authority, cause a notice to be served on the said local authority informing it of the proposed alteration, suspension or removal, as the case may be, of the restriction or obligation specified in such notice and calling for its comments and recommendation to be lodged with him within a period of twenty-one days after the date of such notice; and
- (b) cause a notice in both official languages to be published once in the *Official Gazette* of the province and twice with an interval of one week in a newspaper circulating in the area in which the land is situate, of the proposed alteration, suspension or removal, as the case may be, of the restriction or obligation specified in such notice and calling for objections against the proposal to be lodged with him within a period of twenty-one days after the date of the last publication of such notice, and he shall also cause, where possible, a copy of such notice to be served on every owner of land who in his opinion is directly affected by the proposal, such service to be effected by registered post addressed to such owner at his last known address; and

- (c) comply with the provisions of section 4 (1), (2) and (4), which shall apply *mutatis mutandis* as if application had been made for the proposed alteration, suspension or removal, as the case may be, of the restriction or obligation concerned.

Form and
method of
application.

3. (1) Any person who wishes to apply to an Administrator for the alteration, suspension or removal of a restriction or obligation referred to in section 2 (1), shall submit his application in the form prescribed by the Administrator and the application shall be accompanied by such documents and particulars as the Administrator may require.

(2) If the land concerned is situate in the area of a local authority, the application shall be lodged with such local authority and the applicant shall simultaneously forward a copy of such application to the provincial secretary of the province wherein the land is situate. The local authority shall transmit the application to the provincial secretary together with its comments and recommendation thereon.

(3) If the land concerned is not situate in the area of a local authority or if the application is made by a local authority, the application shall be lodged with the provincial secretary of the province wherein such land is situate.

(4) If the land is encumbered by a bond and the application is made by the owner of the land, the application shall be accompanied by the bondholder's consent to such application and if any bond is registered against the land after the date of the application and before the publication of the relevant proclamation, the owner of the land shall furnish the provincial secretary with the consent of the holder of such bond to such application.

(5) The applicant (if he be a person other than the State) shall deposit with the said provincial secretary such an amount as the Administrator may consider sufficient to cover the expenses which will be incurred by the provincial administration in connection with the application, and shall also give an undertaking to defray any such expenses in excess of the amount so deposited.

(6) On receipt of an application the provincial secretary shall cause a notice in both official languages to be published once in the *Official Gazette* of the province and twice with an interval of one week in a newspaper circulating in the area in which the land is situate, stating that such an application has been made, that it is open to inspection at the office of the provincial secretary and at any other place or places, if any, mentioned in the notice, and that objections against the application may be lodged with the provincial secretary on or before a specified date which shall not be less than twenty-one days after the date of the last publication of the notice, and the provincial secretary shall also cause, where possible, a copy of the notice to be served on every owner of land who in his opinion is directly affected by the application, such service to be effected by registered post addressed to such owner at his last known address.

(7) A copy of every objection received by the provincial secretary shall be sent to the applicant by registered post.

(8) If a local authority fails to transmit an application referred to in subsection (2) together with its comments and recommendation thereon, to the provincial secretary within a period of thirty days after the receipt thereof or within such further period as the provincial secretary may on request allow, the application may be dealt with and finalized without such comments and recommendation.

Consideration
of application
by townships
board and
Administrator.

4. (1) On the expiration of the period within which objections may be lodged in terms of the notice referred to in section 3 (6), the provincial secretary shall refer the application together with all objections and all relevant documents and particulars to the townships board for investigation and its recommendation, and the provisions of any law for the time being in force relating to the powers and procedure of the said board in carrying out any investigation in connection with the establishment of a township, shall *mutatis mutandis* apply with reference to any investigation under this subsection.

(2) After consideration of the application, the recommendation of the townships board and the objections and other relevant documents and particulars, the Administrator may grant the application or refuse it.

(3) In addition to any other conditions, if any, he may impose, the Administrator may grant an application subject to the condition that the applicant shall pay to any objector specified in such condition, the value of whose land or a real right in land will, in the opinion of the Administrator, be adversely affected materially by the granting of the application, compensation in an amount which, in the absence of agreement between such applicant and objector, shall be determined by the Administrator and be likewise specified, and the Administrator's determination shall be final.

(4) If an objection is lodged against an application for the alteration, suspension or removal of a restriction or obligation relating to the purpose for which land may be used, the Administrator shall not grant such application without the approval of the Minister.

Alteration,
suspension
or removal of
restrictions or
obligations at
the request of
the Minister.

5. (1) Whenever the Minister, for the purpose of carrying out any of his functions, deems it desirable in the public interest that a restriction or obligation referred to in section 2 (1) in respect of a defined piece or pieces of land be altered, suspended or removed either permanently or for a fixed period either unconditionally or subject to conditions, he may inform the Administrator of the province in which the said land is situate, of his views.

(2) On receipt of the Minister's views, the Administrator shall—

(a) if an application for a similar alteration, suspension or removal of such a restriction or obligation in respect of the same land was addressed to and refused by the Administrator during the preceding twelve months, submit all relevant documents, information, comments and recommendations received by him in connection with such application, together with his own views and recommendation thereon, to the Minister; or

(b) if an application such as is referred to in paragraph (a) was not addressed to and refused by the Administrator during the preceding twelve months—

(i) if the land concerned is situate in the area of a local authority, inform the said local authority of the Minister's views and call for its comments and recommendation thereon; and

(ii) cause a notice in both official languages to be published once in the *Official Gazette* of the province and twice with an interval of one week in a newspaper circulating in the area in which the land is situate, stating the views of the Minister and stating that objections thereto may be lodged with the provincial secretary on or before a specified date, which shall not be less than twenty-one days after the date of the last publication of the notice, and shall also, where possible, cause a copy of the notice to be served on every owner of the said land and every holder of a bond encumbering the said land, as well as such other owners of land who in his opinion will be directly affected by the proposal contained in the Minister's views, such service to be effected by registered post addressed to such owner or landholder at his last known address.

(3) If such local authority or any such owner or bondholder does not lodge its or his comments and recommendation or objection with the provincial secretary within the period fixed in such notice, it or he shall be deemed to have consented to the proposal contained in the Minister's views as stated in such notice.

(4) On receipt of the comments and recommendation or objections, if any, of the local authority, owners and bondholders referred to in subsection (2) (b) (i) and (ii), or after the expiration of the period fixed in the notice, whichever event happens first, the Administrator shall refer the Minister's views together with the comments and recommendation and objections received and all relevant information and documents at his disposal to the townships board for investigation and its recommendation, and the provisions of any law for the time being in force relating to the powers and procedure of the said board in carrying out any investigation in connection with the establishment of a township, shall *mutatis mutandis* apply with reference to any investigation under this subsection.

(5) The townships board shall within twenty-one days of the receipt of the Minister's views and the information and documents referred to in subsection (4) or within such further period as the Administrator may on request allow, furnish the Administrator with its findings and recommendation thereon.

(6) On receipt of the findings and recommendation of the townships board, the Administrator shall refer the same together with all relevant documents, comments and recommendations and objections received, together with his own views and recommendation, to the Minister.

(7) If after consideration of the documents, information, comments, findings, objections and recommendations referred to him in terms of subsection (2) (a) or subsection (6), the Minister deems it desirable in the public interest to do so, he may address a written request to the Administrator for the alteration, suspension or removal, as the case may be, of the restriction or obligation concerned in respect of the said land, and thereupon the Administrator shall, by proclamation in the *Official Gazette* of the province, alter, suspend or remove such restriction or obligation in respect of the said land to the extent and subject to the conditions determined by the Minister and specified in the proclamation.

Endorsements in connection with alterations, suspensions or removals of restrictions or obligations.

6. (1) The registrar of deeds and surveyor-general concerned shall as soon as possible after the publication of a proclamation in terms of section 2 (1) or 5 make, free of charge, such appropriate entries in and endorsements on any relevant register, title deeds, diagram or plan in his office or submitted to him, as may be necessary to reflect the effect of the proclamation.

(2) The provincial secretary concerned shall in writing request the holder of any such title deed to deliver the title deed to him within a period of thirty days or, within such longer period as the provincial secretary may on request allow, for submission to the registrar of deeds for the purposes of subsection (1), and shall forward a copy of such written request to the registrar of deeds.

(3) After receipt of the copy of the said written request the registrar of deeds shall not register any further transactions relating to the land until the entries and endorsements in question have been effected, and shall impound the title deed for the purpose of such entries and endorsements whenever it may for any reason be lodged in his office.

(4) If such holder fails to comply with such written request he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

Tabling of proclamations.

7. Every proclamation issued under section 2 (1) with the approval of the Minister under section 4 (4) whereby a restriction or obligation relating to the purpose for which land may be used, is altered, suspended or removed, and every proclamation issued under section 5 (7), at the request of the Minister, shall, within fourteen days after the promulgation thereof, be laid upon the Table of the Senate and of the House of Assembly, if Parliament is then in ordinary session, and if Parliament is not then in session, within fourteen days after the commencement of its next ensuing ordinary session.

Validation of certain proclamations issued under section 1 of Act 48 of 1946.

8. Every proclamation issued by an Administrator under section 1 of the Removal of Restrictions in Townships Act, 1946, prior to the commencement of this Act which is for any reason invalid, but which would have been valid if it had been issued after the commencement of and under this Act, is hereby validated.

Act does not affect validity of existing ordinances or the existing legislative power of provincial councils.

9. Subject to section 5, the provisions of this Act do not affect the validity of any existing ordinance of a provincial council or the existing legislative power of provincial councils.

Repeal of laws and reservations.

10. (1) Subject to subsection (2) the laws specified in the Schedule to this Act are hereby repealed to the extent set out in the third column.

(2) An application under the provisions of the Removal of Restrictions in Townships Act, 1946 (Act No. 48 of 1946), received by an Administrator prior to the commencement of this Act, shall be dealt with under the aforementioned Act, which shall, for the purposes of such an application, be deemed not to have been repealed.

Short title.

11. This Act shall be called the Removal of Restrictions Act, 1967.

Schedule.

LAWS REPEALED.

No. and Year of Law.	Title of Law.	Extent of Repeal.
Act No. 48 of 1946.	Removal of Restrictions in Townships Act, 1946.	The whole.
Act No. 6 of 1948.	Removal of Restrictions in Townships Amendment Act, 1948.	The whole.
Act No. 58 of 1951.	Removal of Restrictions in Townships Amendment Act, 1951.	The whole.
Act No. 32 of 1963.	Removal of Restrictions in Townships Amendment Act, 1963.	The whole.
Act No. 3 of 1965.	Provincial Affairs Act, 1965.	Section 4.