

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

REPUBLIC OF SOUTH AFRICA

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No. 13341

## THE PRESIDENCY

No. 1490

28 June 1991

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

**No. 108 of 1991: Abolition of Racially Based Land Measures Act, 1991.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**



## Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991

**Repeal of section 13 of and the Second Schedule to Act 32 of 1914**

2. Section 13 of and the Second Schedule to the Hartbeestpoort Irrigation Scheme (Crocodile River) Act, 1914, are hereby repealed.

**Amendment of section 7 of Act 22 of 1919, as amended by section 36 of Act 46 of 1937, section 2 of Ordinance 5 of 1951 (Transvaal) and section 3 of Ordinance 4 of 1955 (Transvaal)** 5

3. Section 7 of the Agricultural Holdings (Transvaal) Registration Act, 1919, is hereby amended by the substitution for the definition of "Minister" of the following definition:

" 'Minister' shall mean the Minister of **[Lands] Public Works and Land Affairs** or any other Minister who may be authorized for the time being to discharge the duties of that Minister **[and in relation to land situated within a scheduled Black area or released area, as defined by or under the Development Trust and Land Act, 1936, shall mean the Minister of Plural Relations and Development]**;" 10 15

**Amendment of section 20 of Act 38 of 1927, as substituted by section 1 of Act 13 of 1955 and amended by section 2 of Act 34 of 1986**

4. (1) Section 20 of the Black Administration Act, 1927, is hereby amended by the substitution for the proviso to paragraph (a) of subsection (1) of the following proviso: 20

"Provided that if any such offence has been committed by two or more persons any of whom is not a Black, or in relation to a person who is not a Black or property belonging to any person who is not a Black other than property, movable or immovable, **[belonging to the South African Development Trust established by section four of the Development Trust and Land Act, 1936, or]** held in trust for a Black tribe or a community or aggregation of Blacks or a Black, such offence may not be tried by a Black chief or headman;" 25

(2) This section shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), 30 comes into operation in terms of section 12(1) of this Act.

**Repeal of section 25 of Act 38 of 1927**

5. (1) Section 25 of the Black Administration Act, 1927, is hereby repealed.

(2) Any proclamation made under section 25(1) of the Black Administration Act, 1927, including a proclamation validated by Act of Parliament, and in force immediately prior to the commencement of this section in an area, including a self-governing territory, shall, notwithstanding the provisions of subsection (1) but— 35

(a) subject to any amendment thereof under section 87 of this Act; or  
(b) in the case of a self-governing territory, also subject to an amendment thereof by a competent authority in that territory, 40  
remain in force until repealed under the said section 87 or by a competent authority mentioned in paragraph (b).

**Amendment of section 26 of Act 38 of 1927, as substituted by section 3 of Act 4 of 1976** 45

6. Section 26 of the Black Administration Act, 1927, is hereby amended by the deletion of subsection (2).

**Amendment of section 29 of Act 38 of 1927, as amended by section 4 of Act 79 of 1957 and section 3 of Act 70 of 1974**

7. Section 29 of the Black Administration Act, 1927, is hereby amended by the deletion of subsection (3). 50

## Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991

**Repeal of sections 30 and 30A of Act 38 of 1927**

8. (1) Sections 30 and 30A of the Black Administration Act, 1927, are hereby repealed.

(2) Any regulation made under section 30(2) and any by-law made under section 30A(1) of the Black Administration Act, 1927, and in force immediately prior to the commencement of this section in an area, including a self-governing territory, shall, notwithstanding the provisions of subsection (1) of this section but—

- (a) subject to any amendment thereof under section 87 of this Act; or
  - (b) in the case of a self-governing territory, also subject to an amendment thereof by a competent authority in that territory,
- remain in force until repealed under the said section 87 or by a competent authority mentioned in paragraph (b).

**Amendment of section 35 of Act 38 of 1927, as amended by section 9 of Act 9 of 1929, section 3 of Act 9 of 1939, section 10 of Act 21 of 1943, section 17 of Act 67 of 1952, section 4 of Act 42 of 1956, section 4 of Act 70 of 1974 and section 2 of Act 3 of 1980**

9. Section 35 of the Black Administration Act, 1927, is hereby amended—

- (a) by the deletion of the provisos in the definition of "Black";
- (b) by the deletion of the definition of "location"; and
- (c) by the insertion of the following definition before the definition of "works":  
" 'tribal settlement' means any area where persons reside according to indigenous law; "

**Substitution of certain expression in Act 38 of 1927**

10. The Black Administration Act, 1927, is hereby amended by the substitution for the expression "location" wherever it occurs of the expression "tribal settlement".

**Repeal of Act 18 of 1936 and related laws**

11. (1) Subject to the provisions of section 12, the following laws are hereby repealed:

- (a) The Development Trust and Land Act, 1936 (Act No. 18 of 1936);
- (b) sections 35, 40 and 41 of the Black Laws Amendment Act, 1937 (Act No. 46 of 1937);
- (c) the Development Trust and Land Amendment Act, 1939 (Act No. 17 of 1939);
- (d) sections 28 to 32 inclusive and section 34 of the Black Laws Amendment Act, 1949 (Act No. 56 of 1949);
- (e) the Development Trust and Land Amendment Act, 1954 (Act No. 18 of 1954);
- (f) the Development Trust and Land Amendment Act, 1956 (Act No. 73 of 1956);
- (g) sections 5 to 7 inclusive of the Black Laws Further Amendment Act, 1957 (Act No. 79 of 1957);
- (h) the Development Trust and Land Amendment Act, 1958 (Act No. 41 of 1958);
- (i) section 7 of the Representation between the Republic of South Africa and Self-governing Territories Act, 1959 (Act No. 46 of 1959);
- (j) sections 11 and 12 of the Black Laws Amendment Act, 1962 (Act No. 46 of 1962);
- (k) section 5 of the Black Laws Amendment Act, 1963 (Act No. 76 of 1963);
- (l) sections 15 to 17 inclusive and sections 32 to 38 inclusive of the Black Laws Amendment Act, 1964 (Act No. 42 of 1964);

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- (m) section 3 of the Black Laws Amendment Act, 1966 (Act No. 63 of 1966);
- (n) the Black Laws Amendment Act, 1970 (Act No. 19 of 1970);
- (o) section 1 of the Second Black Laws Amendment Act, 1970 (Act No. 27 of 1970); 5
- (p) section 1 of the Third Black Laws Amendment Act, 1970 (Act No. 49 of 1970);
- (q) section 27 of the Black Education Account Abolition Act, 1972 (Act No. 20 of 1972);
- (r) section 3 of the Black Laws Amendment Act, 1972 (Act No. 23 of 1972); 10
- (s) sections 2, 3 and 4 of the Black Laws Amendment Act, 1973 (Act No. 7 of 1973);
- (t) sections 5 and 6 of the Black Laws Amendment Act, 1974 (Act No. 70 of 1974); 15
- (u) sections 29, 30 and 31 of the Expropriation Act, 1975 (Act No. 63 of 1975);
- (v) sections 4, 5 and 6 of the Black Laws Amendment Act, 1976 (Act No. 4 of 1976);
- (w) the Development Trust and Land Amendment Act, 1976 (Act No. 110 of 1976); 20
- (x) section 2 of the Black Laws Amendment Act, 1977 (Act No. 119 of 1977);
- (y) sections 2 to 5 inclusive of the Laws on Plural Relations and Development Amendment Act, 1979 (Act No. 16 of 1979); 25
- (z) section 3 of the Laws on Plural Relations and Development Second Amendment Act, 1979 (Act No. 98 of 1979);
- (aa) section 2 of the Laws on Co-operation and Development Amendment Act, 1983 (Act No. 102 of 1983);
- (bb) sections 3 and 4 of the Laws on Co-operation and Development Amendment Act, 1984 (Act No. 83 of 1984); 30
- (cc) the Development Trust and Land Amendment Act, 1985 (Act No. 54 of 1985);
- (dd) sections 4 to 7 inclusive of the Laws on Development Aid Amendment Act, 1986 (Act No. 57 of 1986); 35
- (ee) sections 2 and 3 of the Development Aid Laws Amendment Act, 1988 (Act No. 53 of 1988);
- (ff) the Excision of Released Areas Act, 1988 (Act No. 54 of 1988);
- (gg) the Development Trust and Land Amendment Act, 1989 (Act No. 31 of 1989); 40
- (hh) the Development Trust and Land Second Amendment Act, 1990 (Act No. 31 of 1990);
- (ii) the Development Trust and Land Amendment Act, 1990 (Act No. 72 of 1990); and
- (jj) the Excision of Released Areas Amendment Act, 1990 (Act No. 73 of 1990). 45
- (2) Any regulation made under section 48 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), and in force immediately prior to the commencement of the repeal of that section in an area, including a self-governing territory, shall, notwithstanding subsection (1) of this section but— 50
- (a) subject to any amendment thereof under section 87 of this Act; or
- (b) in the case of a self-governing territory, also subject to an amendment thereof by a competent authority in that territory,
- remain in force until repealed under the said section 87 or by a competent authority mentioned in paragraph (b). 55

**South African Development Trust**

**12.** (1) Notwithstanding the provisions of section 11 of this Act, the repeal of sections 4, 6*bis*, 8, 9, 9*bis*, 9*ter*, 10, 13, 18, 18*bis*, 19, 20, 22, 23, 39, 48 and 49 of

**Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991**

the Development Trust and Land Act, 1936 (Act No. 18 of 1936), as amended by the laws referred to in section 11, shall come into operation on a separate date or separate different dates fixed by the State President by proclamation in the *Gazette*.

(2) The State President may, in order to bring about the phasing out of the South African Development Trust established under section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), by proclamation in the *Gazette*—

- (a) transfer any asset (including land) or right acquired and any liability or obligation incurred by the Trust to any person, State department or institution established by or under a law, and that person, State department or institution shall, after such transfer, be deemed to have acquired the asset or right or to have incurred the liability or obligation;
- (b) assign the performance of a service performed by the Trust to any person, State department or institution established by or under a law;
- (c) transfer any person in the service of the Trust to any State department or institution established by or under a law, subject to the adjustments (if any) to the conditions of service, remuneration and pension rights of such a person as specified in the proclamation: Provided that any person who declines such transfer, shall be dealt with in terms of the provisions governing his conditions of service, remuneration and pension rights.

(3) Any transfer or assignment referred to in subsection (2) shall be subject to any term, condition, restriction or direction of the State President as specified in the relevant proclamation.

(4) (a) The registrar of deeds in question shall make the necessary entries and endorsements in respect of his registers and other documents, as well as in respect of any relevant documents produced to him, in order to give effect to such a transfer.

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such transfer, entry or endorsement.

**Repeal of Act 29 of 1937 and related laws** 30

13. The following laws are hereby repealed:

- (a) The Unbeneficial Occupation of Farms Act, 1937 (Act No. 29 of 1937);
- (b) the Unbeneficial Occupation of Farms Amendment Act, 1939 (Act No. 35 of 1939); and
- (c) sections 33 and 34 of the Expropriation Act, 1975 (Act No. 63 of 1975).

**Amendment of section 70 of Act 30 of 1941, as amended by section 13 of Act 7 of 1961, section 2 of Act 27 of 1970, section 11 of Act 11 of 1974, section 20 of Act 29 of 1984 and Proclamation No. 45 of 1990**

14. (1) Section 70 of the Workmen's Compensation Act, 1941, is hereby amended by the deletion in subparagraph (i) of paragraph (a) of subsection (1) of the words "the South African Development Trust established under the Development Trust and Land Act, 1936 (Act No. 18 of 1936)".

(2) Subsection (1) shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act.

**Amendment of section 1 of Act 10 of 1944, as amended by section 10 of Act 55 of 1972**

15. Section 1 of the Provincial Powers Extension Act, 1944, is hereby amended by the deletion of the words "and which does not form part of an area defined in the Schedule to the Black Land Act, 1913 (Act No. 27 of 1913), or of an area defined in the First Schedule to the Development Trust and Land Act, 1936 (Act No. 18 of 1936)".

## Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991

**Repeal of section 2 of Act 10 of 1944**

16. Section 2 of the Provincial Powers Extension Act, 1944, is hereby repealed.

**Amendment of section 21 of Act 13 of 1944, as amended by section 6 of Act 47 of 1959, section 2 of Act 35 of 1961, section 1 of Act 14 of 1964, section 5 of Act 46 of 1965, section 13 of Act 5 of 1968, section 3 of Act 41 of 1972, section 1 of Act 52 of 1975, section 1 of Act 109 of 1976, section 1 of Act 88 of 1981, section 3 of Act 89 of 1985, section 1 of Act 93 of 1988 and section 8 of Act 80 of 1989** 5

17. (1) Section 21 of the Land Bank Act, 1944, is hereby amended by the deletion of paragraph (c)bis of subsection (1).

(2) Subsection (1) shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act. 10

**Amendment of section 28 of Act 13 of 1944, as substituted by section 3 of Act 5 of 1968 and amended by section 12 of Act 31 of 1969 and Proclamation No. 147 of 1979**

18. (1) Section 28 of the Land Bank Act, 1944, is hereby amended by the deletion of paragraph (d) of subsection (1). 15

(2) Subsection (1) shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act.

**Repeal of heading preceding section 45ter, and section 45ter, of Act 13 of 1944** 20

19. (1) Section 45ter of the Land Bank Act, 1944, and the heading preceding that section are hereby repealed.

(2) Subsection (1) shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act. 25

**Amendment of section 10 of Act 52 of 1951, as substituted by section 14 of Act 104 of 1988**

20. Section 10 of the Prevention of Illegal Squatting Act, 1951, is hereby amended—

(a) by the substitution for the definition of “administration” of the following definition: 30

“‘administration’ means the provincial administration concerned;”;

(b) by the substitution for the definition of “Administrator” of the following definition: 35

“‘Administrator’ means an Administrator as defined in section 1 of the Provincial Government Act, 1986 (Act No. 69 of 1986);”;

(c) by the deletion of the definition of “Official Gazette”.

**Substitution of section 11A of Act 52 of 1951, as inserted by section 15 of Act 104 of 1988** 40

21. The following section is hereby substituted for section 11A of the Prevention of Illegal Squatting Act, 1951:

**“Exercise of powers by Administrator**

**11A. The Administrator shall exercise the powers granted to him under this Act in accordance with the directions of the Minister of Planning, Provincial Affairs and National Housing.”** 45

**Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991****Repeal of Act 47 of 1953 and related laws**

22. The following laws, in so far as they have not been repealed, are hereby repealed:

- (a) The Black Education Act, 1953 (Act No. 47 of 1953);
- (b) the Black Education Amendment Act, 1954 (Act No. 44 of 1954); 5
- (c) the Black Education Amendment Act, 1956 (Act No. 36 of 1956);
- (d) the Black Education Amendment Act, 1959 (Act No. 33 of 1959);
- (e) the Black Education Amendment Act, 1961 (Act No. 55 of 1961);
- (f) the Black Special Education Act, 1964 (Act No. 24 of 1964);
- (g) the Black Education Amendment Act, 1970 (Act No. 44 of 1970); 10
- (h) section 22 of the General Law Amendment Act, 1975 (Act No. 57 of 1975);
- (i) the Black Education Amendment Act, 1977 (Act No. 56 of 1977); and
- (j) the Black Education Amendment Act, 1978 (Act No. 67 of 1978).

**Repeal of Act 55 of 1959 and related laws 15**

23. (1) The following laws are hereby repealed:

- (a) The Black Affairs Act, 1959 (Act No. 55 of 1959);
- (b) section 5 of the Black Laws Amendment Act, 1966 (Act No. 63 of 1966);
- (c) sections 4 to 7 inclusive of the Third Black Laws Amendment Act, 1970 (Act No. 49 of 1970); 20
- (d) the Laws on Co-operation and Development Act, 1981 (Act No. 111 of 1981);
- (e) sections 1 and 2 of the Laws on Co-operation and Development Act, 1982 (Act No. 83 of 1982); and
- (f) sections 11 to 17 inclusive of the Constitutional Laws Amendment Act, 1987 (Act No. 32 of 1987). 25

(2) This section shall come into operation on a separate date fixed by the State President by proclamation in the *Gazette*.

**Repeal of section 19 of Act 57 of 1959**

24. Section 19 of the Stock Theft Act, 1959, is hereby repealed. 30

**Amendment of section 91 of Act 66 of 1965, as substituted by section 21 of Act 86 of 1983**

25. Section 91 of the Administration of Estates Act, 1965, is hereby amended by the substitution for the expression "section 93(3)(a)" of the expression "section 93(3)". 35

**Amendment of section 93 of Act 66 of 1965, as amended by section 4 of Act 79 of 1971, section 22 of Act 86 of 1983 and section 5 of Act 63 of 1990**

26. Section 93 of the Administration of Estates Act, 1965, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) After the expiration of three months from the date of publication of the said statement, such person shall forthwith transmit a statement and affidavit in the prescribed form to the Master and deposit in the guardian's fund to the credit of the rightful owners all such amounts still remaining unclaimed by the rightful owners." 40

**Repeal of section 70A of Act 4 of 1966 45**

27. (1) Section 70A of the Housing Act, 1966, is hereby repealed.

(2) This section shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act.

## Act No. 108, 1991 ABOLITION OF RACIALLY BASED LAND MEASURES ACT, 1991

**Amendment of section 1 of Act 63 of 1970, as amended by section 1 of Act 76 of 1981**

28. Section 1 of the Mountain Catchment Areas Act, 1970, is hereby amended—

(a) by the substitution for the definition of “occupier” of the following definition:

“ ‘occupier’, in relation to land, means any person who as owner, lessee or otherwise has the management, charge, control or use of any land, whether he resides on that land or not, and includes any person who has a right of cutting trees or wood on any land or of removing trees or wood from any land, and in relation to land under the control of a local authority, that local authority, but does not include any person who as [a labour tenant, squatter or servant, as defined in section 49 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or as] ‘bywoner’ or ‘deelsaaiier’ is in occupation or has the use of any land;”;

(b) by the deletion of paragraph (e) of the definition of “owner”.

**Amendment of section 6 of Act 21 of 1971, as amended by section 7 of Act 9 of 1975, section 11 of Act 98 of 1979 and section 9 of Act 30 of 1984**

29. Section 6 of the Self-governing Territories Constitution Act, 1971, is hereby amended by the deletion in subparagraph (i) of paragraph (a) of subsection (2) of the words “or the Development Trust and Land Act, 1936 (Act No. 18 of 1936)”.

**Amendment of section 30 of Act 21 of 1971, as amended by section 9 of Act 71 of 1974**

30. Section 30 of the Self-governing Territories Constitution Act, 1971, is hereby amended by the deletion of subsection (4).

**Insertion of section 30A in Act 21 of 1971**

31. The following section is hereby inserted in the Self-governing Territories Constitution Act, 1971, after section 30:

“**Validity of law of self-governing territory in conflict with certain laws** 30

**30A.** No law of a self-governing territory shall be valid in so far as it is in conflict with any provision of the Abolition of Racially Based Land Measures Act, 1991, or any proclamation made under the said Act.”

**Repeal of section 36A of Act 21 of 1971**

32. (1) Section 36A of the Self-governing Territories Constitution Act, 1971, is hereby repealed.

(2) Any proclamation made under section 36A of the Self-governing Territories Constitution Act, 1971, and in force immediately prior to the commencement of this section in an area, including a self-governing territory, shall, notwithstanding the provisions of subsection (1) but—

(a) subject to any amendment thereof under section 87 of this Act; or

(b) in the case of a self-governing territory, also subject to an amendment thereof by a competent authority in that territory,

remain in force until repealed under the said section 87 or by a competent authority mentioned in paragraph (b).

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Amendment of Schedule 1 to Act 21 of 1971, as amended by section 12 of Act 23 of 1972, section 15 of Act 7 of 1973, section 24 of Act 70 of 1974, section 10 of Act 71 of 1974, section 4 of Act 115 of 1977, section 19 of Act 12 of 1978, Proclamation No. R.150 of 1979, Proclamation No. R.3 of 1980, Proclamation No. 172 of 1980, Proclamation No. R.235 of 1980, Proclamation No. R.116 of 1984, Proclamation No. R.112 of 1985, Proclamation No. 38 of 1986, Proclamation No. 141 of 1986, Proclamation No. R.20 of 1987, Proclamation No. R.64 of 1987, section 20 of Act 32 of 1987, Proclamation No. R.109 of 1988 and section 4 of Act 111 of 1990

33. Schedule 1 to the Self-governing Territories Constitution Act, 1971, is hereby amended by the substitution for item 7B of the following item:

“7B. The levy and exemption of rental for and grazing fees on land [other than land situated in a proclaimed township, belonging to the South African Development Trust, established by section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936)].”

Amendment of section 4 of Act 54 of 1971, as amended by sections 46 and 47 of Act 97 of 1986

34. Section 4 of the National Roads Act, 1971, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A notice under subsection (1) shall only be issued on the recommendation of the commission made, subject to the provisions of subsection (5)(b), after consultation with the Administrator of each province in which the road in question is or will be situated and, if that road is or will be situated in a territory which by or in terms of an Act of Parliament has been declared to be a self-governing territory within the Republic [or in an area consisting of land referred to in section 21(1) of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or in a scheduled Black area as defined in that Act, with the Secretary for Plural Relations and Development], with the competent authority of the self-governing territory concerned.”

Amendment of section 1 of Act 2 of 1975, as amended by section 1 of Act 48 of 1982

35. (1) Section 1 of the Abortion and Sterilization Act, 1975, is hereby amended by the substitution for the definition of “State-controlled institution” of the following definition:

“‘State-controlled institution’ means a hospital conducted by the State (including a provincial administration), and such part of any other institution, other than such a hospital, as may be hired and controlled by a provincial administration [and a hospital maintained out of moneys provided out of the South African Development Trust Fund mentioned in section 8 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936)];”

(2) This section shall come into operation on the date on which the repeal of section 8 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act.

Amendment of section 25 of Act 12 of 1975, as amended by section 5 of Act 20 of 1982

36. Section 25 of the Agricultural Produce Agency Sales Act, 1975, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) If within the period of 90 days referred to in subsection (1), no valid claim has been lodged in respect of such money, the Director-General shall deposit such money to the credit of the person entitled thereto, in the guardian’s fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965).”

**Substitution of section 21 of Act 63 of 1975**

37. The following section is hereby substituted for section 21 of the Expropriation Act, 1975:

**“Deposit of compensation money with Master, and retention thereof by Minister, in certain cases**

21. (1) If property expropriated under this Act was burdened with a *fideicommissum* or if compensation is payable in terms of this Act to a person whose place of residence is not known, or if compensation is so payable and there is no person to whom it can be paid, the Minister may deposit the amount of the compensation payable in terms of this Act with the Master [or if, in the opinion of the Minister, the property concerned is not so burdened and the compensation is so payable to a Black, with the South African Development Trust mentioned in section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936)], and after such deposit the Minister shall cease to be liable in respect of that amount.

(2) Any moneys received by the Master in terms of subsection (1) shall—

(a) if the property in question was burdened with a *fideicommissum*, *mutatis mutandis* be subject to all the terms and conditions contained in the will or other instrument by which such *fideicommissum* was constituted; and

(b) subject to the provisions of paragraph (a), be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled thereto, and bear interest at a rate determined from time to time by the Minister of Finance.

(3) The provisions of subsections (1) and (2) shall not affect the jurisdiction of any court to make an order in respect of any moneys in question.

(4) In the event of a dispute or doubt as to the person who is to receive any compensation payable in terms of this Act, or in the event of the issue of an interdict in respect of the payment of any such compensation, or if the owner and any mortgagee or any buyer have not notified the Minister in terms of section 19 in regard to the payment of such compensation, the Minister shall pay the amount of such compensation to the Master.”

**Repeal of sections 42 and 57 of Act 11 of 1977**

38. Sections 42 and 57 of the Finance and Financial Adjustments Acts Consolidation Act, 1977, are hereby repealed.

**Amendment of section 7 of Act 36 of 1978**

39. Section 7 of the Alteration of Provincial Boundaries Act, 1978, is hereby amended by the deletion of paragraph (b).

**Substitution of section 233 of Act 91 of 1981**

40. The following section is hereby substituted for section 233 of the Co-operatives Act, 1981:

**“Disposal of unclaimed payments**

233. If a cheque by which any payment is made in terms of a liquidation or distribution account, is not cashed or deposited within 90 days after it was issued, the liquidator shall, unless the registrar otherwise directs, stop payment of the cheque and forthwith deposit

the amount concerned in the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), to be credited to the said person."

**Amendment of section 2 of Act 43 of 1983**

41. (1) Section 2 of the Conservation of Agricultural Resources Act, 1983, is hereby amended by the deletion of paragraph (b) of subsection (1). 5

(2) This section shall come into operation on a separate date fixed by the State President by proclamation in the *Gazette*.

**Amendment of section 1 of Act 35 of 1984**

42. (1) Section 1 of the Animal Diseases Act, 1984, is hereby amended by the deletion in subsection (1) of paragraph (c) of the definition of "owner". 10

(2) This section shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act.

**Amendment of section 2 of Act 122 of 1984**

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43. (1) Section 2 of the Forest Act, 1984, is hereby amended by the deletion of subsection (1).

(2) This section shall come into operation on a separate date fixed by the State President by proclamation in the *Gazette*.

**Repeal of section 3 of Act 26 of 1985**

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44. Section 3 of the Alteration of Provincial Boundaries Act, 1985, is hereby repealed.

**Amendment of section 2 of Ordinance 20 of 1986**

45. Section 2 of the Division of Land Ordinance (Transvaal), 1986, is hereby amended by the deletion of paragraph (c) of subsection (1). 25

**Amendment of section 2 of Act 84 of 1986**

46. (1) Section 2 of the Motor Vehicle Accidents Act, 1986, is hereby amended by the deletion in paragraph (a) of subsection (2) of the words "South African Development Trust or the".

(2) This section shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act. 30

**Amendment of section 6 of Act 41 of 1987, as amended by section 2 of Act 58 of 1989**

47. (1) Section 6 of the Electricity Act, 1987, is hereby amended by the substitution for paragraph (a) of the proviso to subsection (1) of the following paragraph: 35

"(a) any department of State;"

(2) This section shall come into operation on the date on which the repeal of section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), comes into operation in terms of section 12(1) of this Act. 40

## CHAPTER II

REPEAL OF AND ARRANGEMENTS IN RESPECT OF LAWS ON  
GROUP AREAS AND FREE SETTLEMENT AREAS

## Repeal of Act 36 of 1966 and related laws

48. (1) The following laws are hereby repealed: 5
- (a) The Group Areas Act, 1966 (Act No. 36 of 1966);
  - (b) the Group Areas Amendment Act, 1969 (Act No. 69 of 1969);
  - (c) the Group Areas Amendment Act, 1972 (Act No. 83 of 1972);
  - (d) the Group Areas Amendment Act, 1974 (Act No. 72 of 1974);
  - (e) the Group Areas Amendment Act, 1975 (Act No. 22 of 1975); 10
  - (f) the Group Areas Amendment Act, 1977 (Act No. 96 of 1977);
  - (g) the Group Areas Amendment Act, 1978 (Act No. 43 of 1978);
  - (h) the Group Areas Amendment Act, 1979 (Act No. 113 of 1979);
  - (i) the Group Areas Amendment Act, 1982 (Act No. 62 of 1982);
  - (j) the Group Areas Amendment Act, 1984 (Act No. 101 of 1984); 15
  - (k) the Free Settlement Areas Act, 1988 (Act No. 102 of 1988); and
  - (l) the Local Government Affairs in Free Settlement Areas Act, 1988 (Act No. 103 of 1988).
- (2) Any transaction whereby a person (hereinafter referred to as a nominee owner) acquired property contrary to section 40 of the Group Areas Act, 1966, on behalf of another person (hereinafter referred to as the principal) shall, from the commencement of this section, be deemed not to be an illegal transaction or a transaction which constitutes an offence. 20
- (3) The parties to a transaction referred to in subsection (2) may within six months after the commencement of this section in writing request the registrar of deeds concerned to transfer property which by virtue of the transaction is registered in the name of the nominee owner to the principal in accordance with this section. 25
- (4) A request referred to in subsection (3) shall be accompanied by affidavits or solemn affirmations by the nominee owner and the principal, respectively, in which the following submissions are contained, namely— 30
- (a) in the case of the nominee owner—
    - (i) that he is a party to a transaction referred to in subsection (2) as nominee owner;
    - (ii) that the person who made the affidavit or affirmation referred to in paragraph (b) is the principal in the transaction; 35
    - (iii) that a property registered in his name and specified in the affidavit or affirmation was registered in his name by virtue of the transaction;
    - (iv) that he acquired the property on behalf of the principal with the exclusive object of circumventing the Group Areas Act, 1966; and 40
    - (v) that he has no objection to the transfer of the property to the principal;
  - (b) in the case of the principal—
    - (i) that he is a party to the transaction concerned as principal; 45
    - (ii) that the person who made the affidavit or affirmation referred to in paragraph (a) is the nominee owner in the transaction;
    - (iii) that the property concerned was registered in the name of the nominee owner by virtue of the transaction; and
    - (iv) that the nominee owner acquired the property on his behalf with the exclusive object of circumventing the Group Areas Act, 1966. 50
- (5) On receipt of a request in accordance with subsection (3) and the supporting affidavits or solemn affirmations in which the submissions referred to in subsection (4) are contained, the registrar of deeds shall, subject to section 56 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), transfer the property concerned to the person who according to the affidavits or solemn affirmations is or is purported to be the principal, by making the necessary entries and endorsements in respect of his registers and other documents, as well as in respect of any relevant documents produced to him. 55

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(6) No transfer duty, stamp duty or other fees shall be payable in respect of a transfer referred to in subsection (5).

(7) Any person who makes an affidavit or a solemn affirmation referred to in this section which to his knowledge is false or in any material respect misleading, shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment. 5

(8) If a nominee owner—

(a) refuses or omits to make an affidavit or a solemn affirmation referred to in subsection (4); or 10

(b) cannot be found to make such an affidavit or solemn affirmation, the principal may within six months after the commencement of this section apply to a court for an order authorizing the transfer of the property concerned to him.

(9) The registrar of deeds shall carry out an order of the court under subsection (8) by making the necessary entries and endorsements in respect of his registers and other documents, as well as in respect of any relevant documents produced to him. 15

(10) The provisions of subsection (5) shall apply *mutatis mutandis* in respect of a transfer referred to in subsection (8).

**Amendment of section 40 of Ordinance 26 of 1944, as amended by section 8 of Ordinance 7 of 1956, section 11 of Ordinance 18 of 1961, section 2 of Ordinance 10 of 1977 and section 1 of Ordinance 7 of 1984** 20

49. Section 40 of the Valuation Ordinance (Cape of Good Hope), 1944, is hereby amended by the substitution in subsection (1) for subparagraph (c) of paragraph (ii) of the following subparagraph: 25

“(c) immovable property improved or depreciated in value by reason of the operation of a town-planning scheme or any municipal or public work or undertaking [or the proclamation of a group area under section twenty of the Group Areas Act, 1957 (Act No. 77 of 1957)];”.

**Amendment of section 6 of Act 52 of 1951, as substituted by section 9 of Act 104 of 1988** 30

50. Section 6 of the Prevention of Illegal Squatting Act, 1951, is hereby amended by the deletion of paragraph (b) of subsection (9).

**Amendment of section 32 of Act 4 of 1966, as amended by section 64 of Act 63 of 1975** 35

51. Section 32 of the Housing Act, 1966, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary in any law contained, the Commission may—

(a) subject to the prior written approval of the Minister, given in consultation with the Minister of Finance, purchase, or acquire in any other manner, any [affected property as defined in section 1 of the Community Development Act, 1966, or any other] immovable property [whether or not situated in a group area as so defined] for use for purposes determined in this Act or, where necessary, otherwise to develop or dispose of it; 40 45

(b) at the request of the Minister, made in consultation with the Minister of Finance, purchase, expropriate, or acquire in any other manner, any such [affected property or other] immovable property or so purchase, expropriate or acquire it and construct a dwelling or carry out a scheme on it.”. 50

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**Amendment of section 1 of Act 91 of 1983, as amended by section 1 of Act 116 of 1984, section 1 of Act 45 of 1985, section 1 of Act 110 of 1985, section 6 of Act 43 of 1988, section 1 of Act 82 of 1988 and section 23 of Act 103 of 1988**

52. Section 1 of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of the definition of "free settlement area". 5

**Amendment of section 17 of Act 91 of 1983, as amended by section 24 of Act 103 of 1988**

53. Section 17 of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of subsections (4) and (5).

**Amendment of section 17B of Act 91 of 1983, as inserted by section 5 of Act 110 of 1985 and amended by section 25 of Act 103 of 1988** 10

54. Section 17B of the Promotion of Local Government Affairs Act, 1983, is hereby amended by the deletion of subsection (10).

### CHAPTER III

#### REPEAL OF AND ARRANGEMENTS IN RESPECT OF CERTAIN LAWS APPLICABLE TO ASIATICS AND COLOURED

 15

##### Repeal of Asiatic Land Tenure Acts

55. The following laws are hereby repealed:

- (a) The Transvaal Asiatic Land Tenure Amendment Act, 1936 (Act No. 30 of 1936); 20
- (b) the Transvaal Asiatic Land Tenure Further Amendment Act, 1937 (Act No. 32 of 1937);
- (c) the Asiatics (Transvaal Land and Trading) Amendment Act, 1941 (Act No. 28 of 1941);
- (d) the Asiatic Land Tenure Amendment Act, 1944 (Act No. 9 of 1944); 25
- (e) the Asiatic Land Tenure Act, 1946 (Act No. 28 of 1946); and
- (f) the Asiatic Laws Amendment Act, 1948 (Act No. 47 of 1948).

##### Repeal of Act 7 of 1946 and the Rural Coloured Areas Acts

56. The following laws are hereby repealed:

- (a) The Coloured Persons Settlement Act, 1946 (Act No. 7 of 1946); 30
- (b) the Concordia Communal Reserve (Extension of Area) Act, 1958 (Act No. 29 of 1958);
- (c) the Coloured Persons Communal Reserves Act, 1961 (Act No. 3 of 1961);
- (d) the Rural Coloured Areas Act, 1963 (Act No. 24 of 1963); 35
- (e) the Rural Coloured Areas Amendment Act, 1967 (Act No. 75 of 1967);
- (f) section 22 of the General Law Amendment Act, 1969 (Act No. 101 of 1969);
- (g) sections 46 and 47 of the Expropriation Act, 1975 (Act No. 63 of 1975);
- (h) the Rural Coloured Areas Amendment Act, 1976 (Act No. 28 of 1976); 40  
and
- (i) the Rural Coloured Areas Amendment Act, 1978 (Act No. 31 of 1978).

**Amendment of section 1 of Act 9 of 1987**

57. Section 1 of the Rural Areas Act (House of Representatives), 1987, is hereby amended—

- (a) by the substitution for paragraph (c) of the definition of “fixed date” of the following paragraph: 5

“(c) in relation to an incorporated area, the date of publication of the proclamation under section 4(1) of Act 24 of 1963 **[whereby such area was declared to be reserved for occupation or ownership of qualified persons];**”;

- (b) by the substitution for the definition of “incorporated area” of the following definition: 10

“‘incorporated area’ means an area consisting of one or more pieces of land (whether contiguous or not) which has been **[declared to be reserved for occupation or ownership]** defined by proclamation under section 4(1) of Act 24 of 1963;”;

- (c) by the deletion of the definition of “qualified person”; and 15

- (d) by the substitution for the definition of “society” of the following definition:

“‘society’ means any mission society or religious body which, prior to the application of the Act of 1909 to any area, held land in such area in trust for the inhabitants thereof **[who are qualified persons]**, or was the owner of land on which a mission station **[for qualified persons]** existed and to which the provisions of the Act of 1909 applied on the fixed date in terms of section 27 of that Act;”.

**Repeal of section 2 of Act 9 of 1987** 25

58. Section 2 of the Rural Areas Act (House of Representatives), 1987, is hereby repealed.

**Amendment of section 3 of Act 9 of 1987**

59. Section 3 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution for subsection (1) of the following subsection: 30

“(1) Save as is expressly otherwise provided in this Act **[or the conditions and reservations set out in any proclamation issued under section 4(1) of Act 24 of 1963]**, the provisions of this Act shall, in so far as they can be applied, *mutatis mutandis* apply also to every existing area.”.

**Amendment of section 8 of Act 9 of 1987** 35

60. Section 8 of the Rural Areas Act (House of Representatives), 1987, is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) any registered owner of land appearing on the plan of subdivision or general plan shall retain his ownership of such land **[subject to the condition that in the case of any such owner who is not a qualified person the land in question shall be dealt with as in this section provided]**.”; and 40

- (b) by the deletion of subsections (2) and (3). 45

**Repeal of sections 9 and 10 of Act 9 of 1987**

61. Sections 9 and 10 of the Rural Areas Act (House of Representatives), 1987, are hereby repealed.

**Substitution of section 11 of Act 9 of 1987**

62. The following section is hereby substituted for section 11 of the Rural Areas Act (House of Representatives), 1987:

**“Endorsement of title deeds**

11. The registrar of deeds concerned shall upon receipt of a notice signed by the Minister or a person authorized thereto by him, and without payment of transfer duty or registration or other fees, make the necessary endorsements and entries on the appropriate documents and in his registers and, if submitted to him, on the title deed of any land in an incorporated area which in terms of section 7 **[or 8(2) or (3)]** becomes vested in the Minister or in terms of section **[10 or] 20(2)(d)** becomes vested in the board of management.”: 5 10

**Amendment of section 12 of Act 9 of 1987**

63. Section 12 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 15

“The Minister shall **[subject to the provisions of section 13(1)]**, out of moneys appropriated by the House of Representatives for the purpose, pay compensation to the owner in respect of any property or right which has vested in the Minister by virtue of section 7 **[or 8(3)]**, except in the case of—”. 20

**Repeal of sections 13, 14 and 15 of Act 9 of 1987**

64. Sections 13, 14 and 15 of the Rural Areas Act (House of Representatives), 1987, are hereby repealed.

**Amendment of section 16 of Act 9 of 1987**

65. Section 16 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution for subsection (2) of the following subsection: 25  
“(2) Any person who fails to comply with a notice under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R50 or in default of payment to imprisonment for a period not exceeding three months.” 30

**Repeal of section 17 of Act 9 of 1987**

66. Section 17 of the Rural Areas Act (House of Representatives), 1987, is hereby repealed.

**Amendment of section 18 of Act 9 of 1987**

67. Section 18 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the deletion in subsection (1) of the words “or (in the case of a determination under section 17) the arbitrators or the umpire”. 35

**Amendment of section 19 of Act 9 of 1987**

68. Section 19 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution for the first proviso of the following proviso: 40  
“Provided that where land is mortgaged the compensation may in so far as may be necessary be applied in payment of the claims of mortgagees in their legal order of preference **[provided such mortgagees have complied with the provisions of section 15]**.”

**Amendment of section 29 of Act 9 of 1987**

69. Section 29 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, for the purpose of section 3(3)(f) of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983), direct that an Association of Management Boards of Rural **[Coloured]** Areas be instituted.”.

**Amendment of section 47 of Act 9 of 1987**

70. Section 47 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If the nominated person is unable to designate any person under this section by reason of the inability of any beneficiary to make adequate arrangements to the satisfaction of the other beneficiaries or their lawful representatives and of the nominated person for the payment of the value of the shares of such beneficiaries, the Minister may direct that the right of occupation or ownership of the erf in question be sold **[to a person who is a qualified person]** on such terms and conditions and at such a price as he may deem fit, and that the proceeds of such sale after deduction of any expenses incurred in connection therewith be divided amongst all the beneficiaries in proportion to their respective shares.”.

**Amendment of section 49 of Act 9 of 1987**

71. Section 49 of the Rural Areas Act (House of Representatives), 1987, is hereby amended by the substitution in paragraph (b) of subsection (2) for the words preceding the proviso of the following words:

“on the authority of the Minister such deed of grant or subsequent title deed may be cancelled and the lot in question may be sold by public auction on such conditions and at such price as the Minister may deem fit **[to any person who is a qualified person]** where in the opinion of the Minister the owner has for a period of two years failed to make beneficial use of such lot:”.

**CHAPTER IV****REPEAL OF AND ARRANGEMENTS IN RESPECT OF CERTAIN LAWS ON DEVELOPMENT, TOWNSHIPS AND TOWNSHIP PLANNING****Repeal of Act 4 of 1984 and related laws**

72. (1) The following laws are hereby repealed:

- (a) The Black Communities Development Act, 1984 (Act No. 4 of 1984);
- (b) the Black Communities Development Amendment Act, 1985 (Act No. 52 of 1985);
- (c) sections 3 and 4 of the Laws on Co-operation and Development Second Amendment Act, 1985 (Act No. 90 of 1985);
- (d) the Black Communities Development Amendment Act, 1986 (Act No. 74 of 1986);
- (e) sections 26 to 29 inclusive of the Constitutional Laws Amendment Act, 1987 (Act No. 32 of 1987);
- (f) section 26 of the Taxation Laws Amendment Act, 1987 (Act No. 86 of 1987);
- (g) the Black Communities Development Amendment Act, 1988 (Act No. 42 of 1988); and

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(h) the Black Communities Development Amendment Act, 1991.

(2) Chapters VI and VIA of the Black Communities Development Act, 1984 (Act No. 4 of 1984), and any regulation made under the said Act, and in force immediately prior to the commencement of this section in an area, shall, notwithstanding the provisions of subsection (1) of this section but subject to any amendment thereof under section 87 of this Act, remain in force until repealed under the said section 87. 5

(3) Notwithstanding the provisions of subsection (1) the fund referred to in section 47 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), shall continue to exist and shall be administered by the Minister of Planning, Provincial Affairs and National Housing. 10

(4) This section shall come into operation on a separate date fixed by the State President by proclamation in the *Gazette*.

**Amendment of section 1 of Act 4 of 1966, as amended by section 1 of Act 47 of 1967, section 1 of Act 40 of 1975, section 1 of Act 124 of 1977, section 2 of Act 109 of 1979, section 1 of Act 28 of 1982, section 1 of Act 63 of 1983 and section 1 of Act 97 of 1987** 15

73. Section 1 of the Housing Act, 1966, is hereby amended—

(a) by the deletion in subsection (1) of the definition of “development area”; and

(b) by the substitution in subsection (1) for paragraph (e) of the definition of “scheme” of the following paragraph: 20

“(e) a proposal for the development of land **[in a development area]** and the establishment of a township thereon; or”.

**Amendment of section 17A of Act 4 of 1966, as inserted by section 2 of Act 63 of 1983 and amended by section 2 of Act 49 of 1986 and section 6 of Act 97 of 1987** 25

74. Section 17A of the Housing Act, 1966, is hereby amended by the substitution in paragraph (b) of subsection (3) for the words preceding the proviso of the following words:

“with a view to the development of a market for immovable property **[in a development area where no such market exists or where, in the opinion of the housing utility company, the market is insufficiently developed]**, to train estate agents or to have such agents trained and to take such other steps as may be necessary to promote the development of such a market:” 30

**Amendment of section 42 of Act 4 of 1966, as amended by section 5 of Act 40 of 1975 and section 8 of Act 97 of 1987** 35

75. Section 42 of the Housing Act, 1966, is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) invest money with or give other security to building societies in respect of loans to be made or made by them to natural or other persons for the acquisition or development of land **[in a development area]**.” 40

**Substitution of section 64 of Act 4 of 1966, as substituted by section 10 of Act 97 of 1987**

76. The following section is hereby substituted for section 64 of the Housing Act, 1966: 45

**“Disposal of right of occupation**

64. Notwithstanding anything to the contrary in any law contained, any local authority may—

(a) dispose of the right of occupation of any dwelling constructed by it under section 61; and 50

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(b) out of advances made to it or moneys borrowed by it under this Act, advance money for the construction of a dwelling on land belonging to such local authority

**[in accordance with section 36 of the Black Communities Development Act, 1984 (Act No. 4 of 1984)]."**

5

**Amendment of section 1 of Act 102 of 1982, as amended by section 10 of Act 102 of 1983, section 69 of Act 4 of 1984, section 2 of Act 34 of 1986, section 1 of Act 58 of 1986, section 30 of Act 74 of 1986, section 21 of Act 32 of 1987 and section 1 of Act 95 of 1988**

77. Section 1 of the Black Local Authorities Act, 1982, is hereby amended by the deletion in subsection (1) of the definitions of "administration area" and "development area".

10

**Amendment of section 2 of Act 102 of 1982, as substituted by section 2 of Act 58 of 1986 and amended by Government Notice No. 20 of 1987, section 2 of Act 43 of 1988 and section 2 of Act 95 of 1988**

15

78. (1) Section 2 of the Black Local Authorities Act, 1982, is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) establish under a name mentioned in the notice a city council, a town council, a town committee or a local authority committee for an area defined **[in terms of subsection (2)(a)]** by him;"

20

(b) by the deletion of paragraph (a) of subsection (2);

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

"(b) alter the area of jurisdiction of a local authority after consultation with the local authority concerned, by excluding any portion therefrom or by adding thereto **[a development area or an area or portion of a development area or] an area.**"

25

30

(d) by the addition of the following subsections:

"(11) An Administrator may by notice in the Official Gazette define for the purposes of this subsection an area outside a local authority area and exercise in such area the powers conferred upon a city council in a local authority area under this Act.

35

(12) An area administered by the Administrator in terms of Chapter 3 of the Black Communities Development Act, 1984 (Act No. 4 of 1984), shall be deemed to be a defined area referred to in subsection (11)."

(2) Any reference in any law to a local authority established under section 2 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982), shall be deemed in respect of an area referred to in section 2(11) of the Black Local Authorities Act, 1982, also to be a reference to the Administrator.

40

**Amendment of section 3 of Act 102 of 1982, as amended by section 3 of Act 95 of 1988**

45

79. Section 3 of the Black Local Authorities Act, 1982, is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

"(b) promote the establishment of local authorities or local authority committees **[for or in development areas]**;"

**Substitution of section 15 of Act 102 of 1982**

50

80. The following section is hereby substituted for section 15 of the Black Local Authorities Act, 1982:

**“Attendance of meetings by State officials**

15. An official of the State [or a representative of the development board within whose administration area the area of a local authority is situated] may attend a meeting of a local authority or an executive committee, if the local authority or executive committee so desires, and participate in the proceedings, but shall not have the right to vote.” 5

**CHAPTER V****ADVISORY COMMITTEE ON NON-RACIAL AREA MEASURES****Establishment of Advisory Committee on Non-racial Area Measures 10**

81. There is hereby established a committee to be known as the Advisory Committee on Non-racial Area Measures (in this Chapter referred to as the Committee).

**Constitution of Committee**

82. (1) The Committee shall consist of so many members as the State President may deem necessary and appoint. 15

(2) The State President shall designate one of the members of the Committee as chairman of the Committee.

(3) A member of the Committee shall hold office during the State President's pleasure. 20

(4) A member of the Committee who is not in the full-time service of the State, may be paid such remuneration and allowances as the Minister of Justice may with the concurrence of the Minister of Finance determine.

**Functions of Committee**

83. The Committee shall make such investigations as the Minister of Justice or an officer designated by him may deem necessary, and shall advise the State President in relation to the exercise of the powers of the State President granted to him under this Act. 25

**Meetings of Committee**

84. (1) A meeting of the Committee shall be held at such time and place as the chairman may determine. 30

(2) When the chairman is absent from a particular meeting or is unable to perform his functions as chairman, any other member of the Committee designated by the chairman shall preside at that meeting.

(3) The majority of the members of the Committee shall form a quorum for a meeting of the Committee. 35

(4) The decision of the majority of the members of the Committee present at any meeting thereof, shall be a decision of the Committee: Provided that in the event of an equality of votes the member of the Committee presiding at that meeting shall have a casting vote in addition to his deliberative vote. 40

(5) The Committee may make rules in relation to the holding of, and procedure at, meetings of the Committee.

**Reports of Committee**

85. (1) The Committee shall annually not later than the first day of March submit to the Minister of Justice a report on all its activities during the previous year. 45

(2) The report referred to in subsection (1) shall be laid upon the Table in Parliament within 14 days after it is submitted to the Minister, if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session. 50

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86. The administrative work incidental to the performance of the functions of the Committee shall be performed by officers in the service of the Department of Justice under the control of the Director-General: Justice.

**Power of State President in relation to certain laws**

5

87. (1) The State President may, to the extent that appears to him to be necessary or expedient to provide for the readjustment of matters in a non-racial manner, by proclamation in the *Gazette*—

- (a) repeal, amend, supplement or with or without adjustments substitute any regulation, proclamation, rule or by-law referred to in section 5, 8, 10 11(2), 32(2) or 72(2) of this Act;
- (b) amend or supplement any law which contains a reference or implied reference to any law or provision that has been repealed by this Act or to any area that has been defined, determined or established by or under any such repealed law or provision; 15
- (c) amend or supplement any other law so as to give effect to any repeal, amendment, supplement or substitution contemplated in paragraph (a) or (b); or
- (d) amend the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987), or a regulation made thereunder. 20

(2) Without prejudice to the generality of the powers conferred by this section—

- (a) any amendment or supplement contemplated in paragraph (b) of subsection (1) may be effected irrespective of whether the repeal of the law or provision referred to in that paragraph has commenced or not; 25 and
- (b) any amendment or supplement of any law referred to in paragraph (b) or (c) of subsection (1) may, subject to the qualifications which the State President may think fit, provide for the extension or restriction of the application of such law or any provision thereof.

(3) The State President shall not exercise his powers under subsection (1) in respect of a self-governing territory referred to in the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971), except after consultation with the government of such self-governing territory. 30

(4) The provisions of this section shall lapse on 31 December 1994.

**Tabling of list of proclamations**

35

88. A list of proclamations issued by the State President under sections 12 and 87 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 40 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.

**CHAPTER VI**

45

**ADVISORY COMMISSION ON LAND ALLOCATION****Establishment of Advisory Commission on Land Allocation**

89. There is hereby established a commission to be known as the Advisory Commission on Land Allocation (in this Chapter referred to as the Commission).

**Constitution of Commission and period of office of members**

50

90. (1) The members of the Commission shall be appointed by the State President and shall consist of—

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- (a) a chairman;
  - (b) a vice-chairman; and
  - (c) so many other members, not exceeding five, as the State President may deem necessary and who, in his opinion, are representative of the population as a whole. 5
- (2) The chairman and the vice-chairman of the Commission shall be designated by the State President.
- (3) If the chairman is absent or unable to perform his functions in terms of this Act or if no person has been designated as chairman, the vice-chairman shall act as chairman of the Commission and, while the vice-chairman so acts, he shall exercise all the powers and perform all the duties of the chairman. 10
- (4) A member of the Commission shall hold office as a member, and a member designated as chairman or vice-chairman shall hold office as chairman or vice-chairman, during the State President's pleasure.

**Objects of Commission 15**

91. The objects of the Commission shall be to make recommendations to the State President regarding—

- (a) the identification of land belonging to the State or any State institution and acquired by the State or any State institution under, or for the purpose of promoting the objects of, any law repealed by this Act and which has not yet been developed or allocated for a specific purpose; 20
- (b) the identification of rural land with a view to the acquisition thereof by the State for the purposes of agricultural settlement;
- (c) the planning and development, within the limits of the financial means of the State, of land referred to in paragraph (a) or (b), including proposals regarding— 25
  - (i) the manner in which the land can best be developed to offer the greatest number of people, in the case of agricultural land, a decent living, or, in the case of residential land, adequate living space; and
  - (ii) the manner in which participation by the private sector in such planning and development can be obtained; 30
- (d) the allocation of land referred to in paragraph (a) or (b), including proposals regarding—
  - (i) the determination of procedures and closing dates in connection with applications for allocations; 35
  - (ii) the determination of a basis on which allocations can be made with due regard to claims by persons disadvantaged in respect of the land concerned by the application of a law repealed by this Act.

**Powers and duties of Commission**

92. The provisions of sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), shall apply *mutatis mutandis* to the Commission. 40

**Meetings of Commission**

93. (1) A meeting of the Commission shall be held at such time and place as the chairman may determine.
- (2) The majority of the members of the Commission shall form a quorum for a meeting of the Commission. 45
- (3) The decision of the majority of the members of the Commission present at any meeting thereof, shall be a decision of the Commission: Provided that in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote. 50
- (4) The Commission may make rules in relation to the holding of, and procedure at, meetings of the Commission.

**Reports of Commission**

94. (1) The Commission shall annually not later than the first day of March submit to the State President a report on all its activities during the previous year.

(2) The report referred to in subsection (1) shall be laid upon the Table in Parliament as soon as possible.

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**Remuneration and allowances of members of Commission**

95. A member of the Commission who is not in the full-time service of the State may, from moneys appropriated by Parliament for such purpose, be paid such remuneration and allowances in respect of the services performed by him with regard to the functions of the Commission as may be determined by the Minister of Finance.

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**Performance of administrative work of Commission**

96. The administrative work incidental to the performance of the functions of the Commission shall be performed by officers appointed in terms of the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), under the control of a Minister designated by the State President.

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**CHAPTER VII****NORMS AND STANDARDS IN RESIDENTIAL ENVIRONMENTS****Definitions**

97. In this Chapter, unless the context otherwise indicates— 20

“by-law” means any by-law made and in force under section 98;

“general plan” means a plan representing the relative positions and dimensions of two or more pieces of land and which has been approved as a general plan under any law;

“local authority” means— 25

(a) any local authority as defined in section 1(1) of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

(b) any institution or body as referred to in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961), excluding—

(i) any regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985); 30

(ii) any management body or any representative body as defined in section 1 of the last-mentioned Act; or

(iii) a joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990); 35

(c) any board of management or board as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987); or

(d) any local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987);

“neighbourhood” means— 40

(a) an area comprising one or more general plans and in which the majority of the premises are residential premises; or

(b) a portion of any area referred to in paragraph (a) comprising at least 100 residential premises and which is defined for the purposes of this Chapter by means of cadastral boundaries as shown on the compilation maps of the surveyor-general; 45

“neighbourhood committee” means any neighbourhood committee contemplated in section 98(1)(a) established under any by-law;

“nuisance”, in relation to any premises, means any deviation from the use for which the land concerned has been zoned or the use permitted under any town planning scheme, or any physical condition— 50

(a) comprising a health or safety risk;

(b) of decay that conflicts with the perceptible norms or standards in the neighbourhood concerned; or

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- (c) which, measured against the norms or standards of the neighbourhood concerned, is offensive;
- “owner”, in relation to any premises, means—
- (a) the owner as defined in section 102(1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937), or in section 1(1) of the Sectional Titles Act, 1986 (Act No. 95 of 1986); or 5
- (b) the holder of any land tenure right referred to in Schedule 1 to the Upgrading of Land Tenure Rights Act, 1991;
- “premises” means—
- (a) any “erf” as defined in section 102(1) of the Deeds Registries Act, 1937, and includes any building or structure or any part thereof; or 10
- (b) any “section” as defined in section 1(1) of the Sectional Titles Act, 1986; “residential premises” means any premises destined by law for habitation.

**By-laws for residential areas**

98. (1) A majority of all the owners of residential premises in any neighbourhood may by agreement lodge draft by-laws in relation to any such neighbourhood with the local authority concerned regarding— 15
- (a) the election and establishment by the owners of residential premises in any such neighbourhood of a neighbourhood committee of such owners comprising not more than six members; 20
- (b) overcrowding of residential premises, including norms or standards for the determination of overcrowding, and the prohibition, prevention, combating and termination of any overcrowding inconsistent with such norms or standards;
- (c) the use for habitation of premises which are unfit for that purpose, including norms or standards for the determination of such fitness, and the prohibition, prevention, combating and termination of any such use that is inconsistent with such norms or standards; 25
- (d) the maintenance of residential premises in a clean and hygienic condition; 30
- (e) the repair, cleaning up or removal of nuisances on premises by the owner thereof;
- (f) the repair and maintenance of buildings, structures, machinery, accessories, fences and open spaces on or in any residential premises; and
- (g) the orderly use of amenities established and maintained for the residents of the neighbourhood concerned, the determination of norms or standards in respect of any such use and the combating and prohibition of any offensive, indecent, unhygienic or dangerous conduct in the use of such amenities. 35
- (2) Upon receipt of any draft by-laws contemplated in subsection (1) the local authority concerned shall, if it is of the opinion that such draft by-laws comply with subsection (1), cause such by-laws to be promulgated in the *Official Gazette* in respect of any such neighbourhood. 40
- (3) (a) Any person who contravenes or fails to comply with any provision of any by-law shall be guilty of an offence and liable on conviction to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment. 45
- (b) No accused shall be convicted of any offence referred to in paragraph (a) unless the court is satisfied that a notice referred to in section 100(1) has been served on him and that he has failed to comply with any instruction contained therein within the determined period. 50

**Validity of by-laws**

99. (1) Any by-law which discriminates on the ground of race, colour or religion or is grossly unfair shall be of no force and effect.

(2) Any by-law made by the local authority concerned under any other law and which is inconsistent with any by-law made under this Chapter shall be of no force and effect in relation to the neighbourhood concerned.

#### **Powers of neighbourhood committee**

100. (1) A neighbourhood committee may, if it is of the opinion that any provision of any by-law is being contravened or that there is a failure to comply therewith in the neighbourhood concerned, cause a notice in writing to that effect to be served on the owner or occupier concerned in which he is instructed to rectify such contravention or failure within 14 days or such longer period as may be determined by the neighbourhood committee. 5

(2) If the owner or occupier concerned fails to comply with any notice referred to in subsection (1) within the determined period, a member of the neighbourhood committee or any owner or occupier of any premises in the neighbourhood concerned who feels aggrieved thereby, may act as complainant in any criminal proceedings instituted against such owner or occupier. 10  
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#### **Serving of notice**

101. Any written notice under section 100(1) to any owner or occupier concerned shall be served on him—

- (a) by delivering a copy thereof to him;
- (b) by leaving such copy at his usual or last known place of residence or business; or 20
- (c) by sending such copy to him by post to his usual or last known place of residence or business.

#### **Interdict**

102. (1) Any person who feels aggrieved by any contravention of or any failure to comply with any provision of any by-law, shall have the legal capacity to apply to any competent court of law for a preemptory or prohibitory interdict in connection with the contravention of or failure to comply with such provision of such by-law. 25

(2) Any interdict referred to in subsection (1) may, in addition to being applied for against the occupier of any premises, also be applied for against any absent owner thereof. 30

(3) Notwithstanding anything to the contrary contained in any law, any court established under section 2(1)(f) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall, for the purposes of the provisions of subsection (1), be deemed to be a competent court of law, and any such court shall have the jurisdiction to hear and allow or dismiss any application referred to in that subsection. 35  
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#### **Application of this Chapter in self-governing territories**

103. (1) Notwithstanding the provisions of section 104, the provisions of this Chapter shall only apply in a self-governing territory as referred to in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), if, after consultation with the government of any such self-governing territory, the State President by notice in the *Gazette* declares them to be applicable in any such territory, and the State President may, in order to give effect to any such application, so amend provisions of this Chapter. 45

(2) In applying this Chapter in any self-governing territory as referred to in subsection (1), a reference to "local authority" shall be construed as a reference to any body of persons which the State President may after consultation with the government of the self-governing territory concerned by proclamation in the *Gazette* declare to be a local authority for that purpose. 50

## CHAPTER VIII

## MISCELLANEOUS PROVISIONS

**Application of Act**

104. This Act shall also apply in the self-governing territories referred to in the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971). 5

**Restrictions on ground of race or ethnicity in laws of self-governing territories**

105. Any provision in any law of a self-governing territory restricting the acquisition and utilization of rights to land on the ground of race or ethnicity shall cease to be in force in such an area after the commencement of this Act.

**Interpretation of references in laws to certain areas** 10

106. Unless clearly inappropriate, any reference or implied reference in a law to an area defined, determined or established by or under a law or a provision of a law repealed by this Act, shall be construed to be a reference or an implied reference to that area as it was defined, determined or established immediately prior to the repeal of the last-mentioned law and also to any other area which the Minister of Planning, Provincial Affairs and National Housing may by notice in the *Gazette* declare as an additional area for the purposes of such first-mentioned law. 15

**Act 28 of 1966 and Act 43 of 1983**

107. The State President may, by proclamation in the *Gazette*, designate the Minister and the Department responsible for the administration of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), and the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), and upon such assignment the provisions of section 10(5) of the Interpretation Act, 1957 (Act No. 33 of 1957), shall apply *mutatis mutandis*. 20  
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**Short title and commencement**

108. This Act shall be called the Abolition of Racially Based Land Measures Act, 1991, and shall come into operation on 30 June 1991.