

Act No. 58, 2008

PROVISION OF LAND AND  
ASSISTANCE AMENDMENT ACT, 2008

## GENERAL EXPLANATORY NOTE:

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 6 January 2009.)*

# ACT

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

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

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

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

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

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

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

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

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

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

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

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

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## ALGEMENE VERDUIDELIKENDE NOTA:

- [ ] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- \_\_\_\_\_ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)  
(Goedgekeur op 6 Januarie 2009.)

## WET

Tot wysiging van die Wet op die Besikbaargestelling van Grond en Bystand, 1993, ten einde die oogmerke van die Wet te vermeld; om die toepassing van die bepalings betreffende die verkryging, beplanning, ontwikkeling, verbetering en beskikking van of oor eiendom en die verlening van finansiële bystand vir grondhervormingsdoeleindes duideliker te stel en uit te brei; om voorsiening te maak vir die instandhouding van eiendom vir grondhervormingsdoeleindes; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Wysiging van artikel 1 van Wet 126 van 1993, soos gewysig deur artikel 1 van Wet 67 van 1995 en artikel 1 van Wet 26 van 1998**

1. Artikel 1 van die Wet op die Besikbaargestelling van Grond en Bystand, 1993 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die volgende woordomsrywings na die woordomskrywing van “aangewese grond” in te voeg:
- “**Departement**’ die Nasionale Departement verantwoordelik vir Grondsake;  
**eiendom**’ roerende of onroerende, liggaamlike of onliggaamlike eiendom, en omvat aandele, regte, titel of belang in of by ’n regs persoon, ander entiteit of ’n trust;”
- (b) deur die volgende woordomskrywing voor die woordomskrywing van “Minister” in te voeg:
- “**landbou-onderneming**’ ook ’n onderneming betrokke by bedrywighede verbonde aan landbouproduksie en aanplanting, veeteelt, landboudienste, jag, vang en teel van wild, bosbou, saag of afkap van hout, aqua-kultuur en hengel en enige eiendom wat aangewend word om daardie onderneming te bedryf;” en
- (c) deur die volgende woordomskrywing voor die woordomskrywing van “ontwikkelaar” in te voeg:
- “**onderneming**’ ’n onderneming betrokke by die vervaardiging of distribusie van goedere of dienste wat nie vir die uitsluitlike doel van eie gebruik is nie;”

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

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

**“Objects of Act**

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

- |     |   |    |
|-----|---|----|
| (a) | give effect to the land and related reform obligations of the State in terms of section 25 of the Constitution of the Republic of South Africa, 1996; | 5  |
| (b) | effect, promote, facilitate or support the maintenance, planning, sustainable use, development and improvement of property contemplated in this Act;  | 10 |
| (c) | contribute to poverty alleviation; and  | 10 |
| (d) | promote economic growth and the empowerment of historically disadvantaged persons.”.  | 10 |

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

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

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

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

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

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**10.** (1) The Minister may, from money appropriated by Parliament for the purpose of this Act—

- |     |   |    |
|-----|---|----|
| (a) | acquire property; and   |    |
| (b) | on such conditions as he or she may determine—  |    |
|     | (i) make available state land administered or controlled by him or her or made available to him or her;   | 25 |
|     | (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose;                             | 30 |
|     | (iii) provide financial assistance by way of an advance, subsidy, grant or otherwise to any person for the acquisition, maintenance, planning, development or improvement of property and for capacity building, skills development, training and empowerment; or | 35 |
|     | (iv) in writing authorise the transfer of funds to—   |    |
|     | (aa) a provincial government;   |    |
|     | (bb) a municipality;  |    |
|     | (cc) any other organ of state; or   |    |
|     | (dd) any other person or body recognised by the Minister for such purposes,   | 40 |

which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.

(2) The laws governing land use, the subdivision or consolidation of land, or the establishment of townships, shall not apply to land contemplated in this Act unless the Minister directs otherwise in writing.

(3) The Minister shall have all the rights, powers and duties arising from or incidental to anything contemplated in this section and, without detracting from the generality of the foregoing, may—

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**Invoeëing van artikel 1A in Wet 126 van 1993**

2. Die volgende artikel word hierby in die Hoofwet na artikel 1 ingevoeg:

**“Oogmerke van Wet****1A.** Die oogmerke van hierdie Wet is om—

- |     |   |    |
|-----|---|----|
| (a) | gevolg te gee aan die grond- en verwante hervormingsverpligtinge van die Staat ingevolge artikel 25 van die Grondwet van die Republiek van Suid-Afrika, 1996;                             | 5  |
| (b) | die instandhouding, beplanning, volhoubare gebruik, ontwikkeling en verbetering van eiendom wat in hierdie Wet beoog word, teweeg te bring, te bevorder, te vergemaklik of te ondersteun; | 10 |
| (c) | by te dra tot verligting van armoede; en  |    |
| (d) | ekonomiese groei en die bemagtiging van histories benadeelde persone te bevorder.”  |    |

**Wysiging van artikel 9 van Wet 126 van 1993, soos gewysig deur artikel 68 van Wet 67 van 1995 en artikel 4 van Wet 26 van 1998**

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3. Artikel 9 van die Hoofwet word hierby gewysig deur subartikel (8) te skrap.

**Vervanging van artikel 10 van Wet 126 van 1993, soos vervang deur artikel 5 van Wet 26 van 1998**

4. Artikel 10 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Beskikbaarstelling van eiendom vir grondhervormingsdoeleindes 20****10. (1)** Die Minister kan, uit geld deur die Parlement vir die doeleindes van hierdie Wet bewillig—

- |       |   |    |
|-------|---|----|
| (a)   | eiendom verkry; en  |    |
| (b)   | op die voorwaardes wat hy of sy bepaal—   |    |
| (i)   | staatsgrond wat deur hom of haar geadministreer of beheer word of wat aan hom of haar beskikbaar gestel is, beskikbaar stel;  | 25 |
| (ii)  | eiendom in stand hou, beplan, ontwikkel of verbeter of teweeg bring dat sodanige instandhouding, beplanning, ontwikkeling of verbetering uitgevoer word deur 'n persoon of liggaam met wie of waarmee hy of sy 'n skriftelike ooreenkoms vir daardie doel aangegaan het;            | 30 |
| (iii) | finansiële bystand verleen by wyse van 'n voorskot, subsidie, toelaag of andersins aan enige persoon vir die verkryging, instandhouding, beplanning, ontwikkeling of verbetering van eiendom en vir verbetering van vermoëns, vaardighedsontwikkeling, opleiding en bemagtiging; of | 35 |
| (iv)  | die oordrag van fondse skriftelik magtig aan—   |    |
|       | (aa) 'n provinsiale regering;   |    |
|       | (bb) 'n munisipaliteit;   | 40 |
|       | (cc) enige ander staatsorgaan; of   |    |
|       | (dd) enige ander persoon of liggaam vir dié doeleindes deur die Minister erken,   |    |
|       | wat hy of sy as geskik ag vir die bereiking van die oogmerke van hierdie Wet, hetsy in die algemeen, in gevalle van 'n bepaalde aard of in spesifieke gevalle.  | 45 |
|       | (2) Die wette op die gebruik van grond, die onderverdeling of konsolidasie van grond, of die stigting van dorpsgebiede, is nie op grond in hierdie Wet beoog van toepassing nie, tensy die Minister skriftelik anders gelas.  | 50 |
|       | (3) Die Minister het al die regte, bevoegdhede en pligte wat voortspruit uit of gepaard gaan met enigiets wat in hierdie artikel beoog word en, sonder om afbreuk te doen aan die algemeenheid van die voorafgaande, kan die Minister—  |    |

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

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

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

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

- 10A.** (1) The Department must account for the acquisition, management, disposal and leasing of property and the provision of financial assistance in terms of this Act through a trading entity established and operating in accordance with the requirements of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 20
- (2) The trading entity referred to in terms of subsection (1), once established, must maintain separate and itemised financial accounts and accounting records in respect of each agricultural enterprise or separately administered portion of immovable property which it acquires, manages, disposes of, or leases.”. 25

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

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

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

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

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

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

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

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

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

**“Short title**

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

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- (a) eiendom, met inbegrip van staatsgrond, in stand hou;  
 (b) 'n sake- of ander ekonomiese onderneming bedryf; of  
 (c) die regte uitoefen van 'n aandeelhouer of 'n reg in of by 'n regspersoon, ander entiteit of trust, soos in subartikel (1) beoog. 5
- (4) Ondanks artikel 14 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), en die bepalings van enige ander wet tot die teendeel, mag die oordrag van eienaarskap van enige eiendom wat in hierdie Wet beoog word—
- (a) oorgedra en regstreeks geregistreer word van die eienaar van sodanige eiendom na 'n persoon aan wie sodanige eiendom deur die Minister vervreem word; en 10
- (b) is dit vrygestel van die betaling van enige hereregte, seëlregte of ander gelde, fooie van die akteskantoor of ander vordering.”.
- Invoeging van artikel 10A in Wet 126 van 1993** 15
5. Die volgende artikel word hierby in die Hoofwet na artikel 10 ingevoeg:
- “Aktiwiteite bestuur te word as afsonderlike entiteit**
- 10A.** (1) Die Departement moet verantwoording doen oor die verkryging, bestuur, beskikking en verhuur van of oor eiendom en die verlening van finansiële bystand ingevolge hierdie Wet deur bemiddeling van 'n handelsentiteit ingestel en bedryf ooreenkomstig die vereistes van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999). 20
- (2) Die handelsentiteit in subartikel (1) genoem, moet, wanneer dit ingestel is, afsonderlike en gedetailleerde finansiële rekeninge en rekenkundige rekords hou ten opsigte van elke landbou-onderneming of afsonderlik geadmistrateerde gedeelte van onroerende eiendom wat dit verkry, bestuur, oor beskik of verhuur.”. 25
- Vervanging van artikel 11 van Wet 126 van 1993, soos ingevoeg deur artikel 6 van Wet 26 van 1998**
6. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang: 30
- “Minister se bevoegdheid om oor [sekere grond] eiendom te beskik**
- 11.** Die Minister kan vir die doeleindes van hierdie Wet enige [grond wat kragtens] eiendom in hierdie Wet [aangewys of verkry is,] beoog, verkoop, verruil, skenk [of], verhuur, toeken of andersins daarvoor beskik of beswaar op die bedinge en voorwaardes wat hy of sy goedvind, of indien [die grond] sodanige eiendom nie meer vir die doeleindes van hierdie Wet benodig word nie, vir enige ander doel.”. 35
- Wysiging van artikel 14 van Wet 126 van 1993**
7. Artikel 14 van die Hoofwet word hierby gewysig deur die volgende paragraaf by te voeg: 40
- “(g) die aangeleenthede in artikel 10 beoog.”.**
- Vervanging van artikel 16 van Wet 126 van 1993, soos vervang deur artikel 10 van Wet 26 van 1998**
8. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:
- “Kort titel** 45
- 16.** Hierdie Wet heet die Wet op Grondhervorming: Beskikbaarstelling van Grond en Bystand, 1993.”.

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

**Short title**

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

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**Vervanging van lang titel van Wet 126 van 1993, soos vervang deur artikel 12 van Wet 26 van 1998**

9. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:  
"Om voorsiening te maak vir die aanwysing van sekere grond; om die onderverdeling van sodanige grond en die vestiging van persone daarop te reël; om voorsiening te maak vir die [verlening van finansiële bystand vir die verkryging van grond en vir die verlening van sekerheid van verblyfregte] verkryging, instandhouding, beplanning, ontwikkeling, verbetering en beskikking van of oor eiendom en die verlening van finansiële bystand vir grondhervormingsdoeleindes; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan."

**Kort titel**

10. Hierdie Wet heet die Wysigingswet op die Beskikbaarstelling van Grond en Bystand, 2008.