

REMOVAL OF RESTRICTIONS ACT 84 OF 1967

[ASSENTED TO 19 JUNE 1967]

[DATE OF COMMENCEMENT: 26 JUNE 1967]

(Afrikaans text signed by the Acting State President)

as amended by

General Law Amendment Act 70 of 1968
Expropriation of Mineral Rights (Townships) Act 96 of 1969
Removal of Restrictions Amendment Act 55 of 1977
Removal of Restrictions Amendment Act 18 of 1984
Removal of Restrictions Amendment Act (House of Assembly) 84 of 1991
[with effect from 31 January 1992 in the Transvaal and a date not proclaimed in the remaining provinces]
General Law Second Amendment Act 108 of 1993
Local Government Affairs Second Amendment Act 117 of 1993
[with effect from 1 April 1993 in the Transvaal and a date to be proclaimed in the remaining provinces]
Proclamation R160 of 1994

NB: See Proclamation R160 in *Government Gazette* 16049 of 31 October 1994 concerning the extent of the assignment of the administration of this Act to the provinces.

ACT

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

1 Definitions

In this Act, unless the context otherwise indicates-

'Administrator', in so far as a provision of this Act is applied in or with reference to a particular province, means the competent authority to whom the administration of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), been assigned in that province;

[Definition of 'Administrator' substituted by Proclamation R160 of 31 October 1994.]

'Director-General', in so far as a provision of this Act is applied in or with reference to a particular province, means the director-general of the provincial administration of that province;

[Definition of 'Director-General' inserted by Proclamation R160 of 31 October 1994.]

'local authority', in so far as a provision of this Act is applied in or with reference to a particular province, means a local government body or a transitional council, as the case may be, contemplated in section 1 (1) of the Local Government Transition Act, 1993 (Act 209 of 1993);

[Definition of 'local authority' substituted by Proclamation R160 of 31 October 1994.]

'Minister' means the Minister of Regional and Land Affairs;

[Definition of 'Minister' substituted by s. 11 of Act 108 of 1993.]

'province', means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

[Definition of 'province' inserted by Proclamation R160 of 31 October 1994.]

'provincial administration', means the provincial administration established for a province by the Public Service Act, 1994 (Proclamation 103 of 1994);

[Definition of 'provincial administration' inserted by Proclamation R160 of 31 October 1994.]

'provincial secretary'

[Definition of 'provincial secretary' deleted by Proclamation R160 of 31 October 1994.]

'township' means a township as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

'townships board', in so far as a provision of this Act is applied in or with reference to a particular province, means-

- (a) in relation to land which previously formed part of the former province of the Cape of Good Hope, the Planning Advisory Board established for the province concerned in terms of section 33 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), of the said former province;
- (b) in relation to land which previously formed part of the former province of the Transvaal, the Townships Board established for the province concerned by section 3 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), of the said former province;
- (c) in relation to land which previously formed part of the former province of the Orange Free State, the Townships Board constituted in terms of section 2 of the Townships Ordinance, 1969 (Ordinance 9 of 1969), of the said former province;
- (d) in relation to land which previously formed part of the former province of Natal-
 - (i) the Private Townships Board established by section 8 of the Town-planning Ordinance, 1949 (Ordinance 27 of 1949), of the said former province; or
 - (ii) the Town and Regional Planning Commission established by section 2 of the Town-planning Ordinance, 1949, of the said former province.

[Definition of 'townships board' substituted by Proclamation R160 of 31 October 1994.]

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

(1) Whenever the Administrator of a province in which the land in question is situate, is satisfied-

- (a) that it is desirable to do so in the interest of the establishment or development of any township or in the interest of any area, whether it is situate in an urban area or not, or in the public interest; or
- (b) that the land in question is required-
 - (i) for ecclesiastical purposes by the owner or purchaser thereof; or
 - (ii) for public purposes by the State or a local authority; or
 - (iii) for the use or erection of any building by the State or a local authority; or

(iv) for purposes incidental to any purpose mentioned in subparagraphs (i) to (iii), inclusive, he may, subject to the provisions of this Act, of his own accord or on application of any person in terms of section 3, by notice in the *Provincial Gazette* of the province alter, suspend or remove, either permanently or for a period specified in such notice and either unconditionally or subject to any condition so specified, any restriction or obligation which is binding on the owner of the land by virtue of-

(aa) a restrictive condition or servitude registered against the title deed of the land; or

(bb) a provision of a law relating to the establishment of townships or to town planning; or

(cc) a provision of a by-law or of a regulation or of a townplanning scheme; or

(dd) a provision of a townplanning scheme and a restrictive condition or servitude registered against the title deed of the land; or

(ee) a provision of a townplanning scheme and a provision of a law relating to the establishment of townships or to town planning, and which relates to-

(aaa) the subdivision of the land; or

(bbb) the purpose for which the land may be used; or

(ccc) the requirements to be complied with or to be observed in connection with the erection of buildings or the use of the land.

[Sub-s. (1) amended by s. 7 (a) of Act 96 of 1969, substituted by s. 2 (a) of Act 18 of 1984 and amended by Proclamation R160 of 31 October 1994.]

(1A) For the purposes of paragraph (bbb) of subsection (1), any restriction or obligation which is binding on the owner of the land by virtue of a restrictive condition or servitude registered against the title deed of the land, shall be deemed also to relate to the purpose for which the land may be used if, in the opinion of the Administrator, the restriction or obligation prevents or prejudices the establishment or development of any township.

[Sub-s. (1A) inserted by s. 7 (b) of Act 96 of 1969.]

(1B) In the application of subsection (1), no restriction or obligation which is binding on the owner of land by virtue of a provision of a townplanning scheme shall be altered, suspended or removed on the application of a person referred to in section 3 unless the application is directly connected with an application by that person for the alteration, suspension or removal of a restriction or obligation which is binding on that owner by virtue of a restrictive condition or servitude registered against the title deed of the land in question.

[Sub-s (1B) inserted by s. 2 (1) (a) of Act 84 of 1991 (date of commencement in the Transvaal: 31 January 1992; in the remaining provinces: to be proclaimed) and by s. 1 (1) (a) of Act 117 of 1993 (date of commencement in the Transvaal: 1 April 1993; in the remaining provinces: to be proclaimed).]

(2) The provisions of subsection (1) shall not apply in respect of any condition of title affecting rights to minerals.

[Sub-s. (2) substituted by s. 61 of Act 70 of 1968 and by s. 12 of Act 108 of 1993.]

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

[Sub-s. (3) has been substituted by by s. 2 (1) (b) of Act 84 of 1991 (date of commencement in the Transvaal: 31 January 1992; in the remaining provinces: not proclaimed) and by s. 1 (1) (b) of Act 117 of 1993 (date of commencement in the former Transvaal: 1 April 1993; in the provinces Eastern Cape, KwaZulu/Natal, Northern Cape, Orange Free State, Western Cape and in that part of the Province of North-West which previously formed part of the former province of the Cape of Good Hope: to be proclaimed by the various Premiers in the *Provincial Gazette*) concerned. The amended wording of sub-s. (3), as applicable in the former Transvaal, reads as follows:

'When a restriction or obligation which is binding on the owner of any land by virtue of a townplanning scheme, is altered in terms of subsection (1), the provisions of any law on townplanning or the establishment of townships which is in force in the province in which the land is situate and which relates to the payment of a development contribution, or a contribution in respect of engineering services, open spaces or parks, as contemplated in that law, shall apply as if such alteration were an alteration of the townplanning scheme in terms of that law.'.]

(4) Before the Administrator issues any notice under subsection (1) of his own accord in any case in which the rights of any person may be adversely affected without such person's consent, the Administrator shall-

(a) if the land concerned is situate in the area of a local authority, cause a notice to be served on the said local authority informing it of the proposed alteration, suspension or removal, as the case may be, of the restriction or obligation specified in such notice and calling for its comments and recommendation to be lodged with him within a period of twenty-one days after the date of such notice; and

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

[Para. (b) amended by Proclamation R160 of 31 October 1994.]

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

[Para. (c) substituted by s. 2 (c) of Act 18 of 1984.]

[Sub-s. (4) amended by s. 2 (b) of Act 18 of 1984.]

3 Form and method of application

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

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

[Sub-s. (2) amended by Proclamation R160 of 31 October 1994.]

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

[Sub-s. (3) amended by Proclamation R160 of 31 October 1994.]

(4) If the land is encumbered by a bond and the application is made by the owner of the land, the application shall be accompanied by the bondholder's consent to such application, and if any bond is registered against the land after the date of the application and before the publication of the relevant notice under section 2 (1) the owner of the land shall furnish the Director-General with the consent of the holder of such bond to such application.

[Sub-s. (4) substituted by s. 3 (a) of Act 18 of 1984 and amended by Proclamation R160 of 31 October 1994.]

(5) The applicant (if he is a person other than the State) shall deposit-

(a) with the said Director-General such an amount as the Administrator may consider sufficient to cover the expenses which will be incurred by the provincial administration in connection with the application; and

[Para. (a) amended by Proclamation R160 of 31 October 1994.]

(b) in the circumstances contemplated in subsection (2), with the local authority concerned such an amount as the local authority may consider sufficient to cover the expenses which will be incurred by it in connection with the application,

and shall also give an undertaking to defray any such expenses of the provincial administration and, in the circumstances so contemplated, of the local authority in excess of the relevant amount so deposited.

[Sub-s. (5) substituted by s. 3 (b) of Act 18 of 1984.]

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

[Sub-s. (6) amended by Proclamation R160 of 31 October 1994.]

(7) A copy of every objection received by the Director-General shall be sent to the applicant by registered post.

[Sub-s. (7) amended by Proclamation R160 of 31 October 1994.]

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

[Sub-s. (8) amended by Proclamation R160 of 31 October 1994.]

4 Consideration of application by townships board and Administrator

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

[Sub-s. (1) amended by Proclamation R160 of 31 October 1994.]

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

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

(b) The Administrator may, and if requested thereto by the Minister shall, direct that the amount of compensation referred to in paragraph (a) be determined as if it were a claim for compensation arising from the adoption or amendment of a town-planning scheme in terms of the laws of the province in question relating to town-planning and townships.

[Sub-s. (3) substituted by s. 1 of Act 55 of 1977.]

(4) [Sub-s. (4) deleted by s. 4 of Act 18 of 1984.]

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

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

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

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

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

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

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

[Sub-para. (ii) amended by Proclamation R160 of 31 October 1994.]

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

[Sub-s. (3) amended by Proclamation R160 of 31 October 1994.]

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

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

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

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

[Sub-s. (7) substituted by s. 5 of Act 18 of 1984 and amended by Proclamation R160 of 31 October 1994.]

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

(1) The registrar of deeds and surveyor-general concerned shall as soon as possible after the publication of a notice in terms of section 2 (1) or 5 (7) make, free of charge, such appropriate entries in and endorsements on any relevant register, title deeds, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the notice.

[Sub-s. (1) substituted by s. 6 of Act 18 of 1984.]

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

[Sub-s. (2) amended by Proclamation R160 of 31 October 1994.]

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

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

7 [S. 7 repealed by s. 7 of Act 18 of 1984.]

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

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

8A Continued validity of certain proclamations

Any proclamation issued under section 2 (1) or 5 (7) before the commencement of the Removal of Restrictions Amendment Act, 1984, shall continue to be of force and effect notwithstanding the amendment of the section in question by that Act, and shall in so far as may be necessary, for the purposes of this Act be deemed to be a notice issued under the section in question as amended by that Act.

[S. 8A inserted by s. 8 of Act 18 of 1984.]

9 Act does not affect validity of existing ordinances

Subject to section 5 the provisions of this Act shall not affect the validity of any existing ordinance of a former province.

[S. 9 substituted by Proclamation R160 of 31 October 1994.]

10 Repeal of laws and reservations

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

(2) An application under the provisions of the Removal of Restrictions in Townships Act, 1946 (Act 48 of 1946), received by an Administrator prior to the commencement of this Act, shall be dealt with under the aforementioned Act, which shall, for the purposes of such an application, be deemed not to have been repealed.

11 Short title

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

Schedule LAWS REPEALED

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