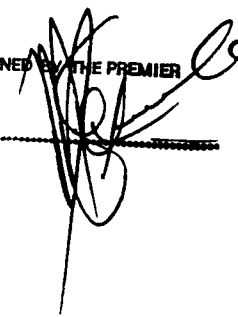


ENGLISH TEXT SIGNED BY THE PREMIER

ASSENTED TO

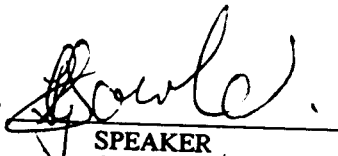


LAND ADMINISTRATION ACT, 1996

(ACT NO. 11 OF 1996)

CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED


SPEAKER

DATE

20 December, 1996

BILL

To provide for the acquisition and disposal of land owned by the Gauteng Provincial Government and for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Province of Gauteng, as follows:

Definitions

1. In this Act, unless the context otherwise indicates -

"**acquire**" shall include the purchase, expropriation, exchange, letting or receipt of immovable property through donation, the conclusion of a land availability agreement in respect of immovable property and the registration of a real or personal right in respect of immovable property in favour of the Gauteng Provincial Government and "**acquisition**" shall have the same meaning; 5

"**beneficiary**" means any person, company or organisation which acquires Provincial land or any right thereto;

"**dispose**" shall include the sale, exchange, letting or donation of immovable property (including the allocation of immovable property free of charge for a period of time), the conclusion of a land availability agreement in respect of immovable property with any beneficiary and the registration of any real or personal right in respect of immovable property in favour of a beneficiary and "**disposal**" shall have the same meaning; 10

"**Fund**" means the Gauteng Land Fund established under section 6; 15

"**Gauteng Provincial Government**" means the government of the province of Gauteng which is recognized as a province of the Republic of South Africa in terms of Section 124(1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

"**Treasury**" means the Treasury of the Gauteng Provincial Government as provided under the Gauteng Exchequer Act; 20

"**immovable property**" includes any interest in immovable property;

"**land availability agreement**" means any written agreement in terms of which the right to develop any immovable property is granted to a party other than the owner of the immovable property, at his or her own risk, and on such terms and conditions as may be agreed;

"**Member of the Executive Council**" means the Member or Members of the Executive Council designated for purposes of any section under this Act by the Premier of the Gauteng Provincial Government; 25

"**Premier**" means the Premier-in-Executive Council of the Gauteng Province as provided under Section 144(1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993);

"**Provincial land**" means any immovable property which vests in the Gauteng Provincial Government in accordance with the provisions of Section 239(1)(b) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), together with any immovable property acquired by the Gauteng Provincial Government pursuant to this Act; 30

"**Registrar**" means the Registrar of Deeds as defined in the Deeds Registries Act 47 of 1937;

"**regulation**" means any regulation made and in force under this Act; 35

"**this Act**" includes the regulations.

Acquisition and disposal of immovable property

2. (1) The Premier may, on such terms and conditions as he or she may deem fit acquire immovable property or dispose of Provincial land.
- (2) Immovable property acquired in terms of subsection (1) shall vest in the Gauteng Provincial Government. 5
- (3) The provisions of sub-section (1) shall not exempt the Premier or any beneficiary from complying with any obligation imposed in terms of any registered condition of title.
- (4) The Member of the Executive Council shall ensure that a consolidated register is established and maintained in order to reflect all Provincial land.
- (5) The Member of the Executive Council shall prepare an annual report to the Gauteng Provincial Legislature in which he or she shall provide the following information: 10
- (a) details of all written applications received from members of the public to acquire Provincial land;
- (b) details of all disposals of Provincial land together with any reacquisition of land as envisaged under Section 3, including: 15
- (i) a full description of immovable property disposed of;
- (ii) the extent of immovable property disposed of;
- (iii) the names of beneficiaries;
- (iv) the purchase price, if any, payable in respect of immovable property disposed of; and 20
- (v) any restrictive conditions imposed in respect of immovable property disposed of.

Right to reacquire Provincial Land

3. (1) The Premier may acquire a right in favour of the Gauteng Provincial Government to the effect that a beneficiary or successors-in-title to a beneficiary shall not dispose of the immovable property, within a maximum period of 5 (five) years from the date of the initial registration of the immovable property into the name of the beneficiary, unless written notice of the intended sale has been given to the Gauteng Provincial Government and the Premier has failed to exercise the right to acquire the immovable property. 25
- (2) At the request of the Premier -
- (a) the immovable property concerned shall be made subject to the pre-emptive right acquired in terms of subsection (1) hereof; 30
- (b) the registrar shall amend or cancel any such pre-emptive right where the Premier decides to cancel or amend such right as provided in subsection (6).
- (3) The Premier shall give notice to the beneficiary of his or her intention to exercise the right to acquire the immovable property within a period of 45 days after receipt of written notice of the intended sale from the beneficiary. 35
- (4) If the Premier elects to exercise the right, price of the immovable property shall be determined:-
- (a) by agreement between the Gauteng Provincial Government and the beneficiary; or
- (b) if no agreement can be reached within a period of 60 days of the date of the notice referred to in sub-section (3), by an arbitrator appointed by the agreement between the Gauteng Provincial Government and the seller, or failing agreement, by an arbitrator appointed by the Premier and the provisions of the Arbitration Act 42 of 1965 shall be applicable. 40
- (5) The Premier shall, upon the determination of the purchase price as set out in sub-section (4), give final written notice to the beneficiary of the exercise of the right to reacquire the immovable property and the transaction shall thereafter be concluded within a reasonable period of time. 45
- (6) The Premier may amend or cancel any right under sub-section (1), provided that only less onerous conditions may be imposed upon any beneficiary in these circumstances.

Execution of documents

4. (1) If the Premier has under section 2, acquired or disposed of any immovable property or Provincial land, he or she shall sign or cause to be signed on behalf of the Gauteng Provincial Government all appropriate contractual documents and such other documents as may be required by law to give effect to the acquisition or disposal. 5
- (2) All documents shall be signed on behalf of the Gauteng Provincial Government by a person authorized thereto by the Premier either generally or in regard to specified immovable property or Provincial land.

Assignment of powers and duties

5. (1) The Premier may either generally or in regard to specific immovable property or Provincial land or in a specified case assign to any Member of the Executive Council, any power or duty conferred or imposed upon him or her by section 2, 3 or 4. 10
- (2) If the Premier assigns to a Member of the Executive Council any power conferred upon him or her, the Member of the Executive Council shall have the powers and be subject to the duties conferred or imposed upon him or her in connection with the exercising of the power so assigned. 15
- (3) The Member of the Executive Council may either generally or in regard to specified immovable property or Provincial land, assign any power or duty conferred or imposed upon him or her by or in terms of this Act, to any official in the service of the Gauteng Provincial Government.

Gauteng Land Fund 20

6. (1) There is hereby established a fund to be known as the Gauteng Land Fund.
- (2) All moneys which become payable to the Gauteng Provincial Government upon the disposal of any Provincial land other than by way of letting, shall be deposited into the Fund, and all expenditure incurred by the Gauteng Provincial Government in the acquisition of immovable property other than by way of letting shall be met out of the Fund. 25
- (3) The Fund shall consist of-
- (a) the amounts which in terms of sub-section 2 are to be paid into the Fund;
- (b) all moneys appropriated by the Gauteng Provincial Legislature from time to time for the acquisition of Provincial land by the Gauteng Provincial Government;
- (c) any other moneys which are to be utilized for the acquisition of Provincial Land from any other source. 30
- (4) Notwithstanding anything to the contrary contained in the Gauteng Provincial Exchequer Act 1 of 1994, all moneys of the Fund may only be utilized for the purposes set out in this Act.
- (5) The Treasury may prescribe-
- (a) guidelines for the management of the Fund; 35
- (b) procedures relating to the withdrawal of moneys from the Fund and the payment of moneys into the Fund;
- (c) the manner in which the accounts of the Fund are to be kept and maintained;
- (d) any other matter which he or she considers necessary or expedient to prescribe in relation to the control or administration of the Fund. 40
- (6) The Head of the Department of Housing and Land Affairs shall, subject to the provisions of this Act, be responsible for the administration of the Fund and shall, for the purposes of the regulations made under the Gauteng Provincial Exchequer Act 1 of 1994, be the accounting officer in relation to the moneys in the Fund and shall keep such accounts as may be prescribed. 45
- (7) The books and statements of account and balance sheet of the Fund shall be audited annually by the Auditor-General.

- (8) The Auditor-General may require any person to make available for examination all books, registers and documents in his or her possession or under his or her control which would, in the opinion of the Auditor-General, facilitate the carrying out of the audit referred to in paragraph (7).
- (9) Surplus moneys in the Fund which cannot be readily utilized for the acquisition of Provincial land shall be invested in such manner as may be determined by the Member of the Executive Council responsible for finance. 5
- (10) The Member of the Executive Council responsible for Housing and Land Affairs shall prepare an annual report to Gauteng Executive Council and to the Gauteng Provincial Legislature on the financial status of the Fund and on proposed expenditure from the Fund. 10

Regulations and policy directives

7. (1) The Premier may, in consultation with the Treasury, make such regulations as he or she considers necessary or expedient for the achievement of the purposes or objectives of this Act.
- (2) The Premier may, in consultation with the Treasury, issue such policy directives as he or she considers necessary to guide the activities of officials in the employ of the Gauteng Provincial Government, for the achievement of the purposes or objectives of this Act. 15

Application of the Act

8. If the provisions of this Act are not reconcilable with the provisions of other Acts relating to the acquisition of immovable property and disposal of Provincial land, then the provisions of this Act shall prevail unless legislation or regulations to the contrary are promulgated. 20

Validation of acts

9. Any transaction in relation to Provincial land which occurred after 27 April 1994 and prior to the commencement of this Act, and which would have been lawfully undertaken but for the lapsing of powers of attorney or the absence of delegated authority to either the Premier, the Member of the Executive Council or any official in the employ of the Gauteng Provincial Government, shall be deemed to have been lawfully effected. 25

Short title

10. This Act shall be called the Gauteng Land Administration Act, 1996.