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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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DEPARTMENT OF THE PRIME MINISTER.

No. 1698. 9th October, 1970.

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

No. 70 of 1970: Subdivision of Agricultural Land Act, 1970.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1698. 9 Oktober 1970.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 70 van 1970: Wet op die Onderverdeling van Landbougrond, 1970.

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Wet No. 70, 1970

WET OP DIE ONDERVERDELING VAN LANDBOUGROND, 1970.

WET

Om die onderverdeling van landbougrond te beheer.

(*Engelse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 28 *September* 1970.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

(i) „landbougrond" alle grond behalwe—

(*a*) grond wat geleë is in die regsgebied van 'n munisipale raad, stadsraad, dorpsraad, dorpsbestuursraad, plaaslike raad, gesondheidsraad of gesondheidskomitee, en grond wat deel uitmaak van, in die provinsie Kaap die Goeie Hoop, 'n plaaslike gebied ingestel kragtens artikel 6 (1) (i) van die Ordonnansie op Afdelingsrade, 1952 (Ordonnansie No. 15 van 1952 van dié provinsie), en, in die provinsie Natal, 'n openbare gesondheidsgebied soos omskryf in artikel 1 van die Ordonnansie op die Kommissie vir Plaaslike Gesondheid (Beheer oor Openbare Gesondheidsgebiede), 1941 (Ordonnansie No. 20 van 1941 van laasgenoemde provinsie), en, in die provinsie Transvaal, 'n plaaslike gebiedskomitee ingestel kragens artikel 21 (1) van die Ordonnansie op die Transvaalse Raad vir die Ontwikkeling van Buitestedelike Gebiede, 1943 (Ordonnansie No. 20 van 1943 van die Transvaal);

(*b*) grond wat deel uitmaak van 'n ander gebied wat onderverdeel is in erwe of persele, met of sonder publieke oop ruimtes, en in strate wat begrens word deur sodanige erwe, persele of ruimtes;

(*c*) grond waarvan die Staat die eienaar is of wat die Staat of 'n Minister vir iemand in trust besit;

(*d*) grond wat deel uitmaak van 'n afgesonderde Bantoegebied soos omskryf in artikel 49 van die Bantoetrust en -grond Wet, 1936 (Wet No. 18 van 1936), of van 'n oopgestelde gebied bedoel in artikel 2 van genoemde Wet;

(*e*) grond waarop die bepalings van die Wet op Landelike Kleurlinggebiede, 1963 (Wet No. 24 van 1963), van toepassing is;

(*f*) grond wat kragtens 'n dorpsbeplanningskema wat ingevolge die een of ander wet van krag is, vir 'n bepaalde doel afgesonder is; (i)

(ii) „Minister" die Minister van Landbou; (iii)

(iii) „plaaslike bestuur" 'n instelling of liggaam bedoel in artikel 84 (1) (*f*) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961); (ii)

(iv) „Sekretaris" die Sekretaris van Landbou-tegniese Dienste; (iv)

(v) „statutêre liggaam"—

(*a*) 'n raad of liggaam wat by of kragtens 'n wet ingestel is en wie se fondse in die geheel of ten dele bestaan uit geld wat die Parlement ten bate van dié raad of liggaam bewillig het;

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ACT

To control the subdivision of agricultural land.

(*English text signed by the State President.*)
(*Assented to 28th September*, 1970.)

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

Definitions.

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

(i) "agricultural land" means any land, except—

(*a*) land situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management council, local board, health board or health committee, and land forming part of, in the province of the Cape of Good Hope, a local area established under section 6 (1) (i) of the Divisional Councils Ordinance, 1952 (Ordinance No. 15 of 1952 of that province), and, in the province of Natal, a public health area as defined in section 1 of the Local Health Commission (Public Health Areas Control) Ordinance, 1941 (Ordinance No. 20 of 1941 of the last-mentioned province), and, in the province of the Transvaal, a local area Committee established under section 21 (1) of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943 of the Transvaal);

(*b*) land forming part of any other area subdivided into erven or plots, with or without public open spaces, and in streets bounded by such erven, plots or spaces;

(*c*) land of which the State is the owner or which is held in trust by the State or a Minister for any person;

(*d*) land forming part of a scheduled Bantu area as defined in section 49 of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), or of a released area referred to in section 2 of the said Act;

(*e*) land to which the provisions of the Rural Coloured Areas Act, 1963 (Act No. 24 of 1963), apply;

(*f*) land zoned for any particular purpose under a town planning scheme which is in force in terms of any law; (i)

(ii) "local authority" means any institution or body referred to in section 84 (1) (*f*) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (iii)

(iii) "Minister" means the Minister of Agriculture; (ii)

(iv) "Secretary" means the Secretary for Agricultural Technical Services; (iv)

(v) "statutory body" means—

(*a*) any board or body which has been established by or under any law and whose funds consist wholly or partly of moneys appropriated by Parliament in aid of such board or body;

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(*b*) 'n plaaslike bestuur;
(*c*) 'n ander raad of liggaam, of 'n raad of liggaam wat behoort tot 'n klas rade of liggame, wat die Minister by kennisgewing in die *Staatskoerant* tot 'n statutêre raad of liggaam of statutêre rade of liggame vir die doeleindes van hierdie Wet verklaar. (v)

Handelinge wat van toepassing van Wet uitgesluit is.

2. Die bepalings van hierdie Wet is nie van toepassing nie ten opsigte van—
(*a*) 'n onderverdeling van grond ten einde 'n gedeelte daarvan aan die Staat of 'n statutêre liggaam oor te dra, of die oordrag van 'n onverdeelde aandeel in grond aan die Staat of so 'n liggaam;
(*b*) 'n onderverdeling van of die oorgang van 'n onverdeelde aandeel in grond volgens 'n testamentêre beskikking of intestate erfopvolging, indien die erflater voor die inwerkingtreding van hierdie Wet oorlede is;
(*c*) die oorgang van 'n onverdeelde aandeel in grond volgens 'n kontrak wat voor die inwerkingtreding van hierdie Wet aangegaan is;
(*d*) 'n onderverdeling van grond in verband waarmee 'n landmeter die betrokke opmeting voltooi en die betrokke onderverdelingskaart en meetstukke by die betrokke landmeter-generaal vir ondersoek en goedkeuring ingedien het voor die inwerkingtreding van hierdie Wet.

Verbod op onderverdeling van, of oorgang van onverdeelde aandeel in, landbougrond.

3. Behoudens die bepalings van artikel 2—
(*a*) mag landbougrond nie onderverdeel word nie;
(*b*) gaan 'n onverdeelde aandeel in landbougrond wat nie reeds deur iemand besit word nie, op niemand oor nie;
(*c*) gaan 'n deel van 'n onverdeelde aandeel in landbougrond nie op iemand oor nie, indien dié deel nie reeds deur iemand besit word nie,
tensy die Minister skriftelike toestemming tot die betrokke onderverdeling of oorgang verleen het.

Aansoek om toestemming van Minister, en oplegging, afdwinging of intrekking van voorwaardes deur hom.

4. (1) 'n Aansoek om die toestemming van die Minister vir die doeleindes van artikel 3 moet by die Sekretaris ingelewer word en moet in dié vorm wees en vergesel gaan van dié planne, stukke en inligting wat genoemde Sekretaris bepaal.

(2) Die Minister kan na goeddunke so 'n aansoek weier of toestaan, en, indien hy dit toestaan, dit toestaan op die voorwaardes wat hy goedvind.

(3) Die Minister kan so 'n voorwaarde afdwing.

(4) Die Minister kan so 'n voorwaarde intrek en, indien dit teen die titelbewys van die grond geregistreer is, gelas dat dit gerojeer word.

Erfopvolging.

5. (1) Indien die Minister nie ingevolge artikel 4 toestem dat bepaalde landbougrond volgens 'n testamentêre beskikking of intestate erfopvolging onderverdeel word of 'n onverdeelde aandeel in sodanige grond daarvolgens oorgaan nie, en daar nie ooreengekom word oor 'n onderverdeling of oorgang ten opsigte waarvan die Minister ingevolge genoemde artikel 4 toestemming verleen nie, moet die eksekuteur van die betrokke boedel die betrokke grond of onverdeelde aandeel, na gelang van die geval, te gelde maak en oor die netto opbrings daarvan beskik volgens genoemde testamentêre beskikking of intestate erfopvolging, na gelang van die geval.

(2) Die bepalings van artikel 12 van die Onteieningswet, 1965 (Wet No. 55 van 1965), is *mutatis mutandis* van toepassing ten opsigte van sodanige opbrings van grond of 'n onverdeelde aandeel in grond, en by sodanige toepassing van genoemde artikel word 'n verwysing daarin na 'n Minister geag 'n verwysing te wees na 'n eksekuteur bedoel in subartikel (1) van hierdie artikel.

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(*b*) any local authority;
(*c*) any other board or body, or any board or body belonging to a class of boards or bodies, which the Minister may by notice in the *Gazette* declare to be a statutory board or body or statutory boards or bodies for the purposes of this Act. (v)

Actions which are excluded from application of Act.

2. The provisions of this Act shall not apply in respect of—
(*a*) any subdivision of land for the purpose of transferring a portion thereof to the State or a statutory body, or the transfer of an undivided share in land to the State or any such body;
(*b*) any subdivision of, or the passing of an undivided share in, any land in accordance with a testamentary disposition or intestate succession, if the testator died before the commencement of this Act;
(*c*) the passing of an undivided share in any land in accordance with a contract entered into prior to the commencement of this Act;
(*d*) any subdivision of any land in connection with which a surveyor has completed the relevant survey and has submitted the relevant subdivisional diagram and survey records for examination and approval to the surveyor-general concerned prior to the commencement of this Act.

Prohibition on subdivision of, or vesting of undivided share in, agricultural land.

3. Subject to the provisions of section 2—
(*a*) agricultural land shall not be subdivided;
(*b*) no undivided share in agricultural land not already held by any person, shall vest in any person;
(*c*) no part of any undivided share in agricultural land shall vest in any person, if such part is not already held by any person,
unless the Minister has consented in writing to the subdivision or vesting concerned.

Application for consent of Minister, and imposition, enforcement or withdrawal of conditions by him.

4. (1) Any application for the consent of the Minister for the purposes of section 3 shall be lodged with the Secretary and shall be in such form and be accompanied by such plans, documents and information as are determined by the Secretary.

(2) The Minister may in his discretion refuse or grant any such application, and, if he grants it, grant it on such conditions as he deems fit.

(3) The Minister may enforce any such condition.

(4) The Minister may withdraw any such condition and, if it has been registered against the title deed of the land, direct that it be cancelled.

Succession.

5. (1) If the Minister does not in terms of section 4 consent to the subdivision of any particular agricultural land in accordance with any testamentary disposition or intestate succession or to the vesting of any undivided share in such land in accordance therewith, and no agreement is reached as to a subdivision or vesting in respect of which the Minister grants his consent in terms of the said section 4, the executor of the estate concerned shall realize the land or undivided share concerned, as the case may be, and dispose of the nett proceeds thereof in accordance with the said testamentary disposition or intestate succession, as the case may be.

(2) The provisions of section 12 of the Expropriation Act, 1965 (Act No. 55 of 1965), shall *mutatis mutandis* apply in respect of any such proceeds of land or an undivided share in any land, and in such application of the said section a reference therein to a Minister shall be deemed to be a reference to an executor referred to in subsection (1) of this section.

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Wet No. 70, 1970

WET OP DIE ONDERVERDELING VAN LANDBOUGROND, 1970.

Pligte van Landmeter-generaal en Registrateur van Aktes by toepassing van Wet.

6. (1) Behoudens die bepalings van artikel 2 mag 'n Landmeter-generaal slegs 'n algemene plan of kaart wat betrekking het op 'n onderverdeling van landbougrond goedkeur, en mag 'n Registrateur van Aktes slegs die oorgang van 'n onverdeelde aandeel in landbougrond bedoel in artikel 3 (*b*), of 'n deel van so 'n aandeel bedoel in artikel 3 (*c*), registreer, indien die toepaslike skriftelike toestemming van die Minister ingevolge hierdie Wet aan hom voorgelê is.

(2) Indien sodanige toestemming verleen is op 'n voorwaarde wat geregistreer kan word, word dié voorwaarde by sodanige goedkeuring of registrasie op die titelbewys van die betrokke grond aangeteken.

Betreding van en ondersoeke op grond.

7. Die Sekretaris kan iemand òf in die algemeen òf in 'n besondere geval magtig om te alle redelike tye grond te betree en om daarop die ondersoeke in te stel of die ander handelinge te verrig wat nodig of dienstig is ten einde die oogmerke van hierdie Wet te bereik.

Delegering van bevoegdhede.

8. Die Minister kan 'n bevoegdheid wat by hierdie Wet aan hom verleen is (uitgesonderd 'n bevoegdheid in artikel 10 bedoel), aan die Sekretaris of 'n ander beampte in die Staatsdiens delegeer, maar word nie van 'n bevoegdheid wat hy gedelegeer het, ontdoen nie, en kan 'n beslissing van die Sekretaris of so 'n beampte wysig of intrek op aansoek van iemand wat deur dié beslissing geraak word en homself daardeur veronreg voel.

Betaling van regte of gelde.

9. Geen regte of kantoorgelde is betaalbaar nie ten opsigte van 'n stuk wat vir die doeleindes van hierdie Wet opgestel is en by 'n registrasiekantoor vir registrasie of liassering ingelewer word.

Regulasies.

10. (1) Behoudens die bepalings van subartikel (2) kan die Minister regulasies uitvaardig met betrekking tot 'n aangeleentheid wat kragtens hierdie Wet voorgeskryf kan word of ten opsigte waarvan dit, na sy oordeel, nodig of dienstig is om regulasies uit te vaardig ten einde die oogmerke van hierdie Wet te bereik.

(2) So 'n regulasie wat op Staatsinkomste of -uitgawes betrekking het, word uitgevaardig na oorlegpleging met die Minister van Finansies.

(3) Regulasies kragtens subartikel (1) uitgevaardig kan bepaal dat iemand wat 'n bepaling daarvan oortree of versuim om dit na te kom, aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met die boete, van hoogstens tweehonderd rand, of met gevangenisstraf vir die tydperk, van hoogstens ses maande, wat daarin bepaal word.

Misdrywe en strawwe.

11. Iemand wat—

(*a*) in 'n aansoek vir die doeleindes van hierdie Wet 'n verklaring doen wat in 'n wesenlike opsig vals is, terwyl hy weet dat dit vals is, of inligting verswyg met die opset om te bedrieg;

(*b*) iemand anders wat kragtens magtiging van die Sekretaris ingevolge artikel 7 optree, by die verrigting van sy werksaamhede hinder of belemmer,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vierhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens een jaar.

Invoeging van artikel 3A in Wet 10 van 1944.

12. Die volgende artikel word hierby in die Wet tot Uitbreiding van Provinsiale Magte, 1944, na artikel 3 ingevoeg:

„Toepassing van Wet.

3A. Die bepalings van artikels 1, 2 en 3 is nie van toepassing nie ten opsigte van landbougrond soos omskryf in artikel 1 van die Wet op die Onderverdeling van Landbougrond, 1970: Met dien verstande dat die bepalings van hierdie artikel nie 'n voorwaarde bedoel in subartikel (2) van genoemde artikel 3 raak nie.".

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Duties of Surveyor-General and Registrar of Deeds in application of Act.

6. (1) Subject to the provisions of section 2 a Surveyor-General shall only approve a general plan or diagram relating to a subdivision of agricultural land, and a Registrar of Deeds shall only register the vesting of an undivided share in agricultural land referred to in section 3 (*b*), or a part of any such share referred to in section 3 (*c*), if the relevant written consent of the Minister in terms of this Act has been submitted to him.

(2) If such consent has been granted subject to a registrable condition, such condition shall, on such approval or registration, be endorsed on the title deed of the land concerned.

Entry upon and investigations on land.

7. The Secretary may either generally or in any particular case authorize any person to enter upon any land at all reasonable times and to carry out thereon such investigations or to perform thereon such other acts as are necessary or expedient for achieving the objects of this Act.

Delegation of powers.

8. The Minister may delegate to the Secretary or any other officer in the Public Service any power conferred upon him by this Act (excluding a power referred to in section 10), but shall not be divested of any power delegated by him, and may vary or withdraw any decision of the Secretary or any such officer upon application by any person affected and feeling aggrieved by such decision.

Payment of duties or fees.

9. No duties or fees of office shall be payable in respect of any document drawn up for the purposes of this Act and lodged in a registration office for registration or filing.

Regulations.

10. (1) Subject to the provisions of subsection (2) the Minister may make regulations with reference to any matter which may be prescribed under this Act, or in respect of which, in his opinion, it is necessary or expedient to make regulations for achieving the objects of this Act.

(2) Any such regulation which relates to State revenue or expenditure shall be made after consultation with the Minister of Finance.

(3) Regulations made under subsection (1) may provide that any person who contravenes or fails to comply with any provision thereof shall be guilty of an offence and on conviction liable to such fine, not exceeding two hundred rand, or to imprisonment for such period, not exceeding six months, as may be prescribed therein.

Offences and penalties.

11. Any person who—

(*a*) in any application for the purposes of this Act makes any statement which is false in any material respect, knowing it to be false, or fails to disclose any information with intent to deceive;

(*b*) hinders or obstructs in the performance of his functions any other person acting under an authority from the Secretary in terms of section 7,

shall be guilty of an offence and on conviction liable to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding one year.

Insertion of section 3A in Act 10 of 1944.

12. The following section is hereby inserted in the Provincial Powers Extension Act, 1944, after section 3:

"Application of Act.

3A. The provisions of sections 1, 2 and 3 shall not apply in respect of agricultural land as defined in section 1 of the Subdivision of Agricultural Land Act, 1970: Provided that the provisions of this section shall not affect any condition contemplated in subsection (2) of the said section 3.".

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Wet No. 70, 1970 WET OP DIE ONDERVERDELING VAN LANDBOUGROND, 1970.

Permitte uitgereik kragtens Wet 88 van 1967.

13. 'n Permit wat kragtens artikel 8 (1) (*a*) (ii) of (iii) van die Wet op Fisiese Beplanning en Benutting van Hulpbronne, 1967, voor die inwerkingtreding van hierdie Wet uitgereik is en by sodanige inwerkingtreding nog van krag is, word geag 'n skriftelike toestemming te wees wat die Minister ingevolge artikel 3 van hierdie Wet verleen het, en die voorwaardes (indien daar is) waarop so 'n permit ingevolge eersgenoemde Wet uitgereik is, word geag voorwaardes te wees wat die Minister ingevolge artikel 4 (2) van laasgenoemde Wet in verband met sodanige toestemming opgelê het.

Toepassing van Wet in Suidwes-Afrika.

14. Hierdie Wet en iedere wysiging daarvan is ook in die gebied Suidwes-Afrika van toepassing.

Kort titel en inwerkingtreding.

15. Hierdie Wet heet die Wet op die Onderverdeling van Landbougrond, 1970, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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Permits issued under Act 88 of 1967.

13. A permit issued under section 8 (1) (*a*) (ii) or (iii) of the Physical Planning and Utilization of Resources Act, 1967, prior to the commencement of this Act and still of force and effect at such commencement, shall be deemed to be a written consent granted by the Minister in terms of section 3 of this Act, and the conditions (if any) subject to which any such permit was issued in terms of the first-mentioned Act, shall be deemed to be conditions imposed by the Minister in terms of section 4 (2) of the last-mentioned Act in connection with such consent.

Application of Act in South-West Africa.

14. This Act and any amendment thereof shall also apply in the territory of South-West Africa.

Short title and commencement.

15. This Act shall be called the Subdivision of Agricultural Land Act, 1970, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

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