
PROVINCE OF WESTERN CAPE

**WESTERN CAPE LAND
ADMINISTRATION ACT, 1998**

PROVINSIE WES-KAAP

**WES-KAAPSE WET OP
GRONDADMINISTRASIE, 1998**

No 6, 1998

ACT

To provide for the acquisition of immovable property and the disposal of land which vests in it by the Western Cape Provincial Government and for matters incidental thereto.

PREAMBLE

Whereas it is reasonably necessary for, or is incidental to, the effective exercise of its powers concerning certain matters listed in Schedule 4 to the National Constitution that immovable property be acquired by the Western Cape Provincial Government, or that immovable property be disposed of by the said Government;

and whereas the province is the repository of legislative powers incidental to the powers vested in it in terms of Schedule 5 of the National Constitution;

and whereas the proper and co-ordinated development and implementation of provincial policy similarly require that immovable property may be so acquired or disposed of;

and whereas the implementation of national or provincial legislation by the Western Cape Provincial Government may require that immovable property be so acquired or disposed of,

BE IT ENACTED by the Provincial Parliament of the province of Western Cape, as follows:—

Definitions

- 1.** In this Act, unless the context otherwise indicates—
- (i) “acquire” includes the purchase, exchange, receipt through donation or leasing of immovable property, the conclusion of any form of 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 province of Western Cape, and “acquisition” has a corresponding meaning; 5 10
 - (ii) “Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
 - (iii) “dispose” includes the sale, exchange, donation or letting of provincial state land (including the allocation of provincial state land free of charge for a period of time), the conclusion of any form of land availability agreement in respect of immovable property with any person and the registration of any real or personal right in respect of provincial state land, and “disposal” has a corresponding meaning; 15
 - (iv) “immovable property” includes any right in or over immovable property; 20
 - (v) “Premier” means the Premier acting together with the other members of the Provincial Cabinet;
 - (vi) “Provincial Cabinet” means the Provincial Cabinet referred to in section 42 of the Constitution of the Western Cape, 1997; 25

- (vii) “provincial state land” means any immovable property which vests in the Western Cape Provincial Government;
- (viii) “Registrar” means the Registrar of Deeds as defined in the Deeds Registries Act, 1937 (Act 47 of 1937);
- (ix) “this Act” includes the regulations; 5
- (x) “transferee” means any person who acquires provincial state land in terms of section 3, and
- (xi) “Western Cape Provincial Government” means the government of the province of Western Cape which is recognised as a province of the Republic of South Africa in terms of section 103(1)(i) of the Constitution of the Republic of South Africa, 1996, and “province of Western Cape” has a corresponding meaning, 10

Acquisition of immovable property

2. (1) Unless otherwise expressly provided for in any other law, the Premier may acquire immovable property. 15
- (2) Immovable property acquired in terms of subsection (1) must be registered in the name of the Western Cape Provincial Government.

Disposal of provincial state land

3. (1) Unless otherwise expressly provided for in any other law, the Premier may dispose of provincial state land on such conditions as are deemed fit; provided that if provincial state land is disposed of at less than that land’s market-related value, it must be a condition of the disposal that if the person who acquired that land no longer wishes to utilise it for the purposes for which it was acquired, that provincial state land must revert to the Western Cape Provincial Government. 20

(2) The Premier must publish in the *Provincial Gazette* in the three official languages of the province and in an Afrikaans, an English and an isiXhosa newspaper circulating in the province in those respective languages, a notice of any proposed disposal in terms of subsection (1), calling upon interested parties to submit, within 21 days of the date of the notice, any representations which they wish to make regarding such proposed disposal; provided that the foregoing provision does not apply to any disposal concerning the leasing of provincial state land for a period not exceeding twelve months without an option to renew. 25

(3) The Premier must, in addition to the notices to be published in terms of subsection (2), cause to be delivered to—

- (a) the occupants, if any, of the provincial state land to be disposed of; 35
- (b) the chief executive officer of the local government for the area in which the provincial state land to be disposed of is situated;
- (c) the Western Cape provincial directors of the National Departments of Land Affairs and Public Works, and
- (d) the Western Cape provincial director of the National Department of Agriculture, if the provincial state land is applied or intended to be applied for agricultural purposes, 40

a copy of the notice referred to in subsection (1), and must advise those persons that they may, within 21 days of the receipt of such notice, make written representations regarding the proposed disposal. 45

(4) (a) The notices referred to in subsections (2) and (3) must include the following information regarding the provincial state land concerned:

- (i) the full title deed description of such land, including the title deed number, the administrative district in which the provincial state land is situated and, if applicable, the nature of any right in or over such land; 50
- (ii) the current zoning of such land, and
- (iii) the actual current use of such land.

(b) The notice referred to in paragraph (a) must include an office address at which full details concerning the provincial state land in question and the proposed disposal may be obtained.

(5) The Premier may amend or cancel a condition imposed in terms of subsection (1), but in the case of an amendment, only less onerous conditions may be imposed upon any transferee. 5

(6) The Premier must notify the Registrar of Deeds in writing that a condition has been amended or cancelled in terms of subsection (5) and such Registrar must on submission of the owner's copy of the title deed endorse the title deed accordingly.

Co-operative Government 10

4. (1) The Premier must co-ordinate the provincial government's actions regarding the administration of provincial state land with the national and local spheres of government as contemplated in Chapter 3 of the Constitution and section 7 of the Constitution of the Western Cape.

(2) The co-ordination referred to in subsection (1) will, among other things, be with a view to— 15

- (a) realising the nation's commitment to land reform and the other reforms required to bring about equitable access to all South Africa's relevant natural resources, and
- (b) rationalising the province's custody, administration and disposal of provincial state land. 20

Land Capital Account

5. There is a Land Capital Account within the Provincial Revenue Fund, into which must be paid the proceeds of any disposal of provincial state land in terms of this Act.

Provincial state land register 25

6. (1) The Director-General, Provincial Administration: Western Cape must establish and maintain a consolidated register of all provincial state land, which must be open for inspection by the public and must contain the following information regarding such land:

- (a) the administrative district in which such land is situated; 30
- (b) the title deed description, including the title deed number of such land;
- (c) the extent of such land;
- (d) the provincial department or departments responsible for the control of the use of such land, and
- (e) the purpose for which such land is applied or is intended to be applied by the department referred to in paragraph (d). 35

(2) The Premier must submit an annual report to the Western Cape Provincial Parliament in which must be provided the following information:

- (a) the details of formal offers received from members of the public to acquire provincial state land, and 40
- (b) the details of all disposals of provincial state land together with any reversion of land in terms of section 3, including—
 - (i) a full description of the provincial state land disposed of;
 - (ii) the extent of the provincial state land disposed of;
 - (iii) the names of the transferees; 45
 - (iv) the purchase price, if any, payable in respect of the provincial state land disposed of;
 - (v) any restrictive conditions imposed in respect of the provincial state land disposed of;
 - (vi) the purpose for which such land was applied prior to the disposal and, if available, the current or intended purpose for which such land is to be applied, and 50
 - (vii) the sum total of the payments received for the period of the report for such disposals.

(3) Notwithstanding the date of the commencement of this Act, the Premier must submit to the Provincial Parliament a report contemplated by subsection (2) for the period 27 April 1994 to 31 March 1998.

Provincial state land not subject to acquisitive prescription

7. Notwithstanding any rule of law to the contrary, provincial state land shall not be capable of being acquired by any person by prescription. 5

Execution of documents

8. If immovable property or provincial state land is acquired or disposed of in terms of section 2 or 3, the Premier must sign or authorise a person to sign on behalf of the Western Cape Provincial Government all the documents required by law to effect the transfer of the immovable property or provincial state land concerned. 10

Assignment and delegation of powers and duties

9. (1) The Premier may, subject to such conditions as may be determined, either generally or in regard to specific immovable property or provincial state land or in a specified case, assign to a member of the Provincial Cabinet any power or duty conferred or imposed upon the Premier by or under this Act. 15

(2) A member of the Provincial Cabinet may, either generally or in regard to specific immovable property or provincial state land or in a specified case, delegate a power or duty assigned to such member in terms of subsection (1) to an officer in the service of the Provincial Administration: Western Cape. 20

Regulations

10. The Premier—

- (a) must make regulations regarding the norms and standards, including procedures, applicable to the acquisition, exchange, disposal and letting of provincial state land, the demolition of buildings on provincial state land, donations of provincial state land and the general space and cost norms applicable in the Provincial Administration: Western Cape, and 25
- (b) may make any other regulations considered necessary or expedient for the achievement of the purpose or objectives of this Act.

Validation of acts 30

11. Any transaction in relation to provincial state 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, a member of the Provincial Cabinet or any officer in the service of the Provincial Administration: Western Cape is deemed to have been lawfully effected. 35

Short title

12. This Act is called the Western Cape Land Administration Act, 1998.