

# LESS FORMAL TOWNSHIP ESTABLISHMENT ACT 113 OF 1991

[ASSENTED TO 27 JUNE 1991]

[DATE OF COMMENCEMENT: 1 SEPTEMBER 1991]

*(English text signed by the State President)*

**as amended by**

Proclamation R159 of 1994  
Development Facilitation Act 67 of 1995  
Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998

**NB: See Proclamation R159 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 provide for shortened procedures for the designation, provision and development of land, and the establishment of townships, for less formal forms of residential settlement; to regulate the use of land by tribal communities for communal forms of residential settlement; and to provide for matters connected therewith.**

### 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' inserted by Proclamation R159 of 31 October 1994.]

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

**'designated land'** means land designated as land for less formal settlement under section 3 (1);

**'developer'** means the Administrator, owner or other person who undertakes the planning and development of designated land in accordance with section 4;

**'erf'** means an erf as defined in section 49 of the Land Survey Act, 1927 (Act 9 of 1927);

**'general plan'** means a general plan in terms of the Land Survey Act, 1927;

**'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 R159 of 31 October 1994.]

**'Minister'** means the Minister of Housing in the national government;

[Definition of 'Minister' substituted by Proclamation R159 of 31 October 1994.]

**'Official Gazette'** means the Official or Provincial Gazette of the province concerned;

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

[Definition of 'province' inserted by Proclamation R159 of 31 October 1994.]

'public place' means a public place as defined in section 49 of the Land Survey Act, 1927;

'settlement' or 'settle' means settlement or settle for the purposes of habitation;

'township' means parts or subdivisions of a piece of land combined by means of public places and used mainly for residential purposes or intended to be so used, which are indicated on a general plan and for which a township register has been opened;

'township register' means a register referred to in section 46 (1) of the Deeds Registries Act, 1937;

'tribal decision', in relation to a tribe, means a decision taken by that tribe in accordance with the indigenous law or customs of that tribe;

'tribe' includes-

(a) any community living and existing like a tribe; or

(b) any part of a tribe living and existing as a separate entity.

## **CHAPTER I SHORTENED PROCEDURES FOR LESS FORMAL SETTLEMENT (ss 2-9)**

### **2 Making available of land by the State for purposes of this Chapter**

(1) The Administrator may make available State land that is controlled by him or land that has been acquired by him by means of purchasing, expropriation or in any other manner, or is in the process of being acquired, for designation under section 3.

(2) A local authority or any other person may make available land of which he is the owner or which is in the process of being transferred to him, for designation under section 3.

(3) The provisions of sections 6 to 23 inclusive of the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis* to the expropriation of land under subsection (1), and in such application a reference in the said sections of that Act to-

(a) 'Minister' shall be construed as a reference to the Administrator concerned; and

(b) 'section 2' shall be construed as a reference to subsection (1).

### **3 Designation of land for less formal settlement**

(1) When the Administrator is satisfied that in any area persons have an urgent need to obtain land on which to settle in a less formal manner, he may, by notice in the *Official Gazette*, and on the conditions mentioned in the notice, designate-

(a) land made available by him under section 2 (1); or

(b) land made available by a local authority or any other person under section 2 (2), as land for less formal settlement: Provided that if such land falls within the area of jurisdiction of a local authority and is made available in terms of section 2 by a person other than that local authority, the Administrator shall not designate such land under this subsection unless-

(i) he has given notice in writing to the local authority of his intention so to designate such land; and

(ii) a period of at least 21 days has expired from the date of such notice.

(2) Notwithstanding anything to the contrary contained in any law, the Administrator may, in a notice referred to in subsection (1), suspend-

(a) any servitude registered against the title of the designated land which, in his opinion, is not being utilized beneficially or, with a view to the use of the land for less formal settlement, will no longer be capable of beneficial utilization; and

(b) any other restrictive condition thus registered or otherwise operative in respect of the land,

if he is of the opinion that such a servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of the land, or that the cancellation of the servitude or condition in accordance with formal procedures will unnecessarily delay the opening of a township register in respect of that land.

(3) The Administrator may, at any time prior to the commencement of settlement in terms of section 8, amend or withdraw a notice referred to in subsection (1): Provided that-

(a) a condition under subsection (1) which binds a local authority or person referred to in paragraph (b) of that subsection may, with the concurrence of the local authority or person, be amended or suspended also after settlement in terms of section 8 has commenced;

(b) the suspension of a servitude or restrictive condition under subsection (2) may be lifted either before or after the commencement of such settlement.

(4) Subsection (2) shall not be construed as authorizing the suspension of any registered right to minerals.

(5) The provisions of-

(a) sections 9, 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940);

(b) any law on physical planning;

(c) section 12 of the National Roads Act, 1971 (Act 54 of 1971);

(d) the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

(e) laws relating to the establishment of townships and town planning;

(f) laws relating to the standards and requirements with which buildings shall comply;

(g) laws requiring the approval of an authority for the subdivision of land;

(h) any other law which, in the opinion of the Administrator, may have a dilatory effect on the development of designated land or the settlement of persons on designated land and which he mentions by notice in the *Official Gazette*, shall, subject to subsection (6), not apply in respect of designated land.

(6) The Administrator may, by notice in the *Official Gazette*-

(a) declare a provision of a law mentioned in subsection (5) to be applicable to designated land described in the notice; or

(b) amend or withdraw a notice under subsection (5) (h).

#### **4 Development of designated land**

(1) The planning and development of designated land shall be undertaken-

(a) in the case of land referred to in section 3 (1) (a), by the Administrator or by someone with whom he has concluded an agreement for that purpose; and

(b) in the case of land referred to in section 3 (1) (b), by the owner of that land or by someone with whom the owner has concluded such an agreement,

subject to the conditions mentioned in a notice under section 3 (1) and in accordance with the requirements deemed necessary by the Administrator to make the speedy and orderly settlement of persons in terms of section 8 possible.

(2) The Administrator shall, for the purposes of subsection (1), ensure that the planning and development of the land takes place in such manner as will make the subsequent upgrading of the services thereon possible.

#### **5 Surveying and approval of general plan**

The developer of designated land shall-

(a) cause a general plan to be prepared for the land and shall cause such plan to be submitted to the surveyor-general for approval; and

(b) after the plan has been approved or provisionally approved by the surveyor-general, file such plan at the deeds registry for registration by the registrar of deeds.

#### **6 Opening of township register and legal effects**

After a general plan has been filed at the deeds registry in terms of section 5 (b), the registrar of deeds shall forthwith open a township register in respect of the designated land concerned, and at the opening of such a register-

(a) the designated land shall, subject to the provisions of this Act, be deemed to be a township established in accordance with the law governing the establishment of townships in force in the area in which the designated land is situated;

(b) a servitude or restrictive condition suspended under section 3 (2) shall be cancelled;

(c) the ownership of parts indicated on the general plan as public places shall vest-

(i) in a case where the designated land is situated within the area of jurisdiction of a local authority, in the local authority; and

(ii) in other cases, in the Administrator in trust for a local authority until a local authority is established for the designated land or the land is incorporated in the area of jurisdiction of a local authority, whereupon it shall vest in such local authority, and the registrar of deeds shall record such vesting in the papers that are under his control or are submitted to him, in such manner as he may deem necessary.

#### **7 Compensation in respect of cancelled servitudes and conditions**

(1) A person who has suffered damage as a result of a cancellation referred to in section 6 (b) may, within a period of three years after such cancellation, claim compensation for his damage, in the case of land referred to in section 3 (1) (a), from the Administrator, or, in the case of land referred to in section 3 (1) (b), from the local authority or the person who made the land available for designation.

(2) The Administrator or such local authority or person, as the case may be, shall compensate the claimant for his damage, if any, with the amount agreed upon between the Administrator or the local authority or person and the claimant, or in the absence of an agreement, with the amount determined by arbitration, in which case the provisions of the Arbitration Act, 1965 (Act 42 of 1965), shall apply *mutatis mutandis*.

### **8 Settlement of persons on designated land**

(1) The developer of designated land may, subject to subsection (2), allocate an erf on that land to a person for settlement.

(2) Settlement of a person under subsection (1) shall take place only after a land surveyor has, with a view to the preparation of a general plan, surveyed the erf and placed the erf beacons: Provided that the Administrator may in a particular case grant permission that such settlement may take place in a manner determined by him even though the erf beacons concerned have not been placed.

(3) Settlement under subsection (1) may take place before the general plan for the designated land has been approved or provisionally approved within the meaning of section 5.

(4) The allocation of an erf shall take place with or without the payment of compensation, as the developer may determine.

### **9 Registration of ownership**

(1) If, at an allocation under section 8 (1), the developer intends to transfer ownership of an erf, he shall, as soon as the township register in respect of the designated land has been opened, or, if such allocation takes place after the opening of the township register, as soon as possible after the allocation, lodge a deed of transfer, made out in the name of the person to whom the erf has been allocated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.

[Sub-s. (1) substituted by s. 68 of Act 67 of 1995.]

(2) A deed of transfer referred to in subsection (1) shall be prepared by-

(a) a conveyancer; or

(b) if the owner of the erf is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister of Land Affairs, a Premier or a local government body, as the case may be.

[Sub-s. (2) substituted by s. 68 of Act 67 of 1995.]

(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.

[Sub-s. (3) substituted by s. 68 of Act 67 of 1995.]

(4) An officer or person referred to in subsection (2) (b)-

(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, *mutatis mutandis*, in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and

(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.

[Sub-s. (4) substituted by s. 68 of Act 67 of 1995.]

(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

[Sub-s. (5) added by s. 68 of Act 67 of 1995.]

(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.

[Sub- s. (6) added by s. 68 of Act 67 of 1995.]

(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).

[Sub-s. (7) added by s. 68 of Act 67 of 1995.]

(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.

[Sub-s. (8) added by s. 68 of Act 67 of 1995.]

## **CHAPTER II SHORTENED PROCEDURES FOR LESS FORMAL TOWNSHIP ESTABLISHMENT (ss 10-19)**

### **10 Requirement of prior permission**

(1) No person shall submit an application to establish a township under this Chapter unless the Administrator has granted his prior permission in writing thereto.

(2) The Administrator shall not grant permission referred to in subsection (1) unless he is satisfied that the demand for housing in the area to which the relevant application applies, justifies township establishment in accordance with this Chapter.

(3) The provisions of any other law which deals with the establishment of townships shall not apply to a township established under this Chapter.

### **11 Application for establishment of township**

(1) A person to whom permission has been granted under section 10 to submit an application for the establishment of a township in terms of this Chapter may submit his application to establish such a township to the Administrator, in such form and accompanied by such plans, documents, permissions, approvals, information and fees as the Administrator may prescribe in respect of the particular province by notice in the *Official Gazette*.

[Sub-s. (1) amended by Proclamation R159 of 31 October 1994.]

(2) On receipt of an application in terms of subsection (1), the Administrator shall give notice in the *Official Gazette* of receipt thereof and of the place where and the period during which the application may be inspected by interested parties.

(3) If the application or any document referred to in subsection (1) is amended, it shall not be necessary for the Administrator to give notice in terms of subsection (2) of such amendment unless in the opinion of the Administrator the amendment is so substantial as to justify such notice.

## **12 Exclusion of laws and suspension of servitudes and restrictive conditions**

(1) The Administrator may, by notice in the *Official Gazette*-

(a) exclude an application referred to in section 11 (1), or a township which is to be established as a result of such an application, from the application of a provision of a law mentioned in the notice and in respect of which the province concerned has legislative competence if he is of the opinion that such a provision will have an unnecessary dilatory effect on the disposal of the application or the establishment of the contemplated township or will otherwise be inappropriate in respect of the application or the establishment of the township;

[Para. (a) amended by Proclamation R159 of 31 October 1994.]

(b) (i) suspend any servitude registered against the title of the land on which the establishment of the township is contemplated and which, in his opinion, is not being utilized beneficially or, with a view to the establishment of a township on that land, will no longer be capable of beneficial utilization; and

(ii) suspend any restrictive condition thus registered or otherwise operative in respect of the land, if he is of the opinion that such a servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of that land as a township, or that the cancellation of the servitude or condition in accordance with formal procedures will unnecessarily delay the opening of a township register in respect of that land.

(2) The Administrator may by notice in the *Official Gazette* amend or withdraw a notice referred to in subsection (1).

(2A) The Minister may by notice in the *Gazette* exercise in respect of a law which falls outside the legislative competence of a province a similar power to that given to the Administrator under subsection (1) (a) in respect of a law which falls within the legislative competence of a province.

[Sub-s. (2A) inserted by Proclamation R159 of 31 October 1994.]

(3) Subsection (1) (b) shall not be construed as authorizing the suspension of any registered right to minerals.

## **13 Certain acts forbidden**

(1) From the date on which notice of an application for township establishment has been given in terms of section 11 (2), no person shall, except with the approval of the Administrator or otherwise than in accordance with the conditions subject to which approval was granted-

(a) sell, exchange, lease or in any other manner dispose of any part of the land which forms the subject of the application;

(b) allocate such a part to someone; or

(c) erect a building on the land.

(2) The prohibition in terms of subsection (1) shall not affect the acts, mentioned in that subsection, which were performed-

(a) after the application for the establishment of the township was withdrawn or rejected;

(b) in a case where a local authority is the applicant referred to in section 11 (1), after a township register has been opened in respect of the land concerned; or

(c) in a case where someone other than a local authority is the applicant, after a township register has been opened in respect of the land concerned and the Administrator has declared by notice in the *Official Gazette* that he has satisfied himself that the services which have to be provided in terms of the conditions imposed under section 14 (1) (a) are available on the land concerned.

(3) Any transaction entered into in conflict with subsection (1), shall be null and void.

#### **14 Powers of the Administrator**

(1) Within 60 days of the date on which notice of an application for township establishment is given in terms of section 11 (2), the Administrator shall-

(a) approve the application subject to such conditions as he may deem advisable; or

(b) refuse the application.

(2) The Administrator shall notify the applicant, the surveyor-general, the registrar of deeds and, if the land concerned is situated within the area of jurisdiction of a local authority, such local authority of his decision in terms of subsection (1) and, if he has approved the application, of the conditions subject to which he has granted the approval.

(3) The Administrator may, after an application has been approved under subsection (1) and before a township register is opened for the township, and after he has consulted the applicant, amend or add to the conditions subject to which the approval was granted, and the Administrator shall notify the surveyor-general and the registrar of deeds of such amendment or addition.

#### **15 Notice of refusal or lapse of application**

(1) If the Administrator has refused an application for township establishment under section 14 (1) or the applicant has withdrawn his application, the Administrator shall give notice thereof in the *Official Gazette*.

(2) On publication of a notice in terms of subsection (1), the notices published in terms of section 11 (2) or 12 (1) or (2) in respect of the application concerned shall lapse.

#### **16 Surveying and approval of general plan**

An applicant whose application has been approved under section 14 (1) (a) shall-

(a) cause a general plan to be prepared for the land which is the subject of the application and shall cause such plan to be submitted to the surveyor-general for approval; and

(b) after the plan has been approved or provisionally approved by the surveyor-general, file such plan at the deeds registry for registration by the registrar of deeds.

#### **17 Opening of township register and legal effect**

After a general plan has been filed at the deeds registry in terms of section 16 (b), the registrar of deeds shall forthwith open a township register in respect of the land concerned, and at the opening of such a register-

(a) the land shall, subject to the provisions of this Act, be deemed to be a township established in accordance with the law governing the establishment of townships in force in the area in which the land is situated;

(b) a servitude or restrictive condition suspended under section 12 (1) (b) shall be cancelled;

(c) the ownership of parts that are indicated as public places on the general plan shall vest-

(i) in a case where the township is situated in the area of jurisdiction of a local authority, in the local authority; and

(ii) in other cases, in the Administrator in trust for a local authority until a local authority is established for the township or the township is incorporated in the area of jurisdiction of a local authority, whereupon it shall vest in such local authority, and the registrar of deeds shall record such vesting in the papers that are under his control or are submitted to him, in such manner as he may deem necessary.

### **18 Compensation in respect of cancelled servitudes and conditions**

(1) A person who has suffered damage as a result of a cancellation referred to in section 17 (b) may, within a period of three years after such cancellation, claim compensation for his damage from the person who applied under section 11 (1) to establish the township.

(2) Such a person shall compensate the claimant for his damage, if any, with the amount agreed upon between him and the claimant, or in the absence of an agreement, with the amount determined by arbitration, in which case the provisions of the Arbitration Act, 1965 (Act 42 of 1965), shall apply *mutatis mutandis*.

### **19 Establishment of townships by or on behalf of Administrator**

(1) If the Administrator is satisfied that the demand for housing in an area justifies township establishment by him in accordance with this section, he may establish or cause to be established a township on State land that is controlled by him or on land that has been acquired by him by means of purchase, expropriation or in any other manner or is in the process of being acquired.

(2) The provisions of sections 6 to 23 inclusive of the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis* to the expropriation of land under subsection (1), and in such application a reference in the said sections of that Act to-

(a) 'Minister' shall be construed as a reference to the Administrator concerned; and

(b) 'section 2' shall be construed as a reference to subsection (1).

(3) The establishment of a township under subsection (1) shall be undertaken by the Administrator or by a person with whom he has concluded an agreement for that purpose, in accordance with such requirements as the Administrator may deem necessary for the establishment of the township.

(4) If the Administrator intends to establish or cause to be established a township under subsection (1), he shall give notice in the *Official Gazette* of the contemplated township establishment and of the place where and the period during which details concerning the contemplated township establishment may be inspected by interested parties.

(5) The Administrator may, by notice in the *Official Gazette*-

(a) exclude the establishment of the contemplated township from the application of a provision of a law mentioned in the notice and in respect of which the province concerned has legislative competence if he is of the opinion that such a provision will have an unnecessary dilatory effect on the establishment of the contemplated township or will otherwise be inappropriate in respect of the establishment of the township;

[Para. (a) amended by Proclamation R159 of 31 October 1994.]

(b) (i) suspend any servitude registered against the title of the land on which the township is contemplated and which, in his opinion, is not being utilized beneficially, or with a view to the establishment of a township on that land, will no longer be capable of beneficial utilization;

(ii) suspend any restrictive condition thus registered or otherwise in force in respect of the land concerned, if he is of the opinion that such a servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of that land as a township, or that the cancellation of the servitude or condition in accordance with formal procedures will unnecessarily delay the opening of a township register in respect of that land.

(6) The Administrator may, by notice in the *Official Gazette*, amend or withdraw a notice referred to in subsection (5).

(6A) The Minister may by notice in the *Gazette* exercise in respect of a law which falls outside the legislative competence of a province a similar power to that given to the Administrator under subsection (5) (a) in respect of a law which falls within the legislative competence of a province.

[Sub-s. (6A) inserted by Proclamation R159 of 31 October 1994.]

(7) Subsection (5) (b) shall not be construed as authorizing the suspension of any registered right to minerals.

(8) After expiry of the period referred to in subsection (4), the Administrator shall notify the surveyor-general, the registrar of deeds, and if the land on which the establishment of the township is contemplated is situated within the area of jurisdiction of a local authority, such local authority of the conditions of use, if any, that will be applicable to the land after the establishment of the township.

(9) The Administrator, or the person referred to in subsection (3), shall-

(a) cause a general plan to be prepared for the land on which the Administrator intends to establish or cause to be established a township and shall cause such plan to be submitted to the surveyor-general for approval; and

(b) file the plan at the deeds registry for registration by the registrar of deeds after the approval or provisional approval of that plan by the surveyor-general.

(10) After a general plan has been filed at the deeds registry in terms of subsection (9) (b), the registrar of deeds shall forthwith open a township register in respect of the land concerned, and at the opening of such a register-

(a) the land shall, subject to the provisions of this Act, be deemed to be a township established in accordance with the law governing the establishment of townships in force in the area within which the land is situated;

(b) a servitude or restrictive condition suspended under subsection (5) shall be cancelled;

(c) the ownership of parts that are indicated on the general plan as public places shall vest-

(i) in the case of a township that is situated within the area of jurisdiction of a local authority, in the local authority; and

(ii) in other cases, in the Administrator in trust for a local authority until a local authority is established for the township or the township is incorporated in the area of jurisdiction of a local authority, whereupon it shall vest in such local authority, and the registrar of deeds shall record such vesting in the papers that are under his control or are submitted to him, in such manner as he may deem necessary.

(11) (a) A person who has suffered damage as a result of any cancellation referred to in subsection (10) (b) may, within a period of three years after such cancellation, claim compensation for his damage from the Administrator.

(b) The Administrator shall compensate the claimant for his damage, if any, with the amount agreed upon between the Administrator and the claimant, or, in the absence of an agreement, with the amount determined by arbitration, in which case the provisions of the Arbitration Act, 1965 (Act 42 of 1965), shall apply *mutatis mutandis*.-

**CHAPTER III  
SETTLEMENT BY INDIGENOUS TRIBES (ss 20-27)**

**20 Criteria for utilization of land according to a communal system**

If an indigenous tribe wishes to utilize land for habitation by tribe members according to a system of traditional communal tenure, the provisions of the laws governing the subdivision of land and the establishment of townships shall not apply to that utilization, provided that the Administrator is of the opinion that the land concerned is suitable for such communal utilization with reference to-

- (a) the location thereof;
- (b) the suitability for the settlement of the proposed number of persons thereon; and
- (c) the purpose for which the land is being utilized or in the opinion of the Administrator should be utilized.

**21 Application to utilize land according to communal system**

- (1) An indigenous tribe that wishes to utilize land as described in section 20 shall, for the purposes of that section, submit a written application to the Administrator.
- (2) The Administrator may require the tribe to furnish him with such information as he may require with regard to the proposed communal utilization.

**22 Powers of the Administrator**

- (1) If the Administrator is of the opinion that the land is suitable for the communal utilization concerned in accordance with the criteria mentioned in section 20, he may, on such conditions as he determines, grant permission to the tribe so to utilize the land.
- (2) The Administrator shall give notice in the *Official Gazette* of any permission granted under subsection (1) and of the conditions subject to which the permission has been granted.

**23 General plan and settlement**

- (1) A tribe to which permission has been granted under section 22 to use land communally for settlement shall-
  - (a) cause a general plan to be prepared for the land and submitted to the surveyor-general;
  - (b) not permit settlement on that land otherwise than in accordance with an allocation to individual tribe members of erven indicated on the general plan.
- (2) The Administrator shall give the tribe such assistance as is necessary to comply with subsection (1).

**24 Nature of rights to land tenure**

- (1) The rights of a tribe member with regard to an erf that has been allocated to him by the tribe shall be governed by the indigenous law and customs of the tribe.
- (2) If ownership in such an erf is transferred to the tribe member by the tribe, the rules of private law shall apply.

**25 Granting of ownership by tribe**

- (1) If the tribe desires, by means of a tribal decision, that ownership of land of which it, or the tribal chief on behalf of the tribe, is the owner be granted to the persons to whom the erven indicated on the general plan have been allocated, the registrar of deeds shall, upon submission to him of a copy of the general plan and a certified copy of the tribal decision and compliance with other legal requirements, open a township register in respect of the land concerned.

(2) On the opening of a township register, that land shall be deemed to be a township established in accordance with the law governing township establishment that is in force in the area in which the land is situated.

## 26 Registration of ownership

(1) If the tribe, in accordance with a decision referred to in section 25 (1), intends to transfer ownership in an erf to a tribe member, it shall, after the township register in respect of the land concerned has been opened, lodge a deed of transfer, made out in the name of the person to whom the erf is to be transferred, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act 47 of 1937), at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.

[Sub-s. (1) substituted by s. 68 of Act 67 of 1995.]

(2) A deed of transfer referred to in subsection (1) shall be prepared by-

(a) a conveyancer; or

(b) if the owner of the erf is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the Minister of Land Affairs, a Premier or a local government body, as the case may be.

[Sub-s. (2) substituted by s. 68 of Act 67 of 1995.]

(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2) (a) or an officer or person referred to in subsection (2) (b) in the manner prescribed under that Act.

[Sub-s. (3) substituted by s. 68 of Act 67 of 1995.]

(4) A person or officer referred to in subsection (2) (b)-

(a) shall disclose the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, *mutatis mutandis*, in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and

(b) may, despite anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.

[Sub-s. (4) substituted by s. 68 of Act 67 of 1995.]

(5) A conveyancer, officer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.

[Sub-s. (5) added by s. 68 of Act 67 of 1995.]

(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.

[Sub-s. (6) added by s. 68 of Act 67 of 1995.]

(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).

[Sub-s. (7) added by s. 68 of Act 67 of 1995.]

(8) Section 17 (1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.

[Sub-s. (8) added by s. 68 of Act 67 of 1995.]

### **27 Exclusion of existing tribal land**

The provisions of this Chapter shall not apply to land which, on the date of commencement of this Act, belongs or has been allocated to an indigenous tribe or is kept in trust for such a tribe.

## **CHAPTER IV MISCELLANEOUS PROVISIONS (ss 28-33)**

### **28 Application of Act**

This Act shall apply in the national territory of the Republic referred to in section 1 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).

[S. 28 substituted by Proclamation R159 of 31 October 1994.]

### **29 Administrator not compelled to give notice or hear objections or representations**

Except where the provisions of this Act expressly make provision therefor, the Administrator shall not, in applying this Act, be compelled, in respect of a proposed step or act or the consideration of an application, to give notice thereof in public or otherwise, or to hear or consider any objection or representation in connection therewith.

**30** .....[S. 30 repealed by Proclamation R159 of 31 October 1994.]

**31** ..... [S. 31 repealed by s. 11 (1) of Act 19 of 1998.]

### **32 Amendment of laws**

The laws mentioned in the Schedule are hereby amended to the extent set out in the third column.

### **33 Short title and commencement**

This Act shall be called the Less Formal Township Establishment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

**Schedule  
LAWS AMENDED**

[Schedule amended by s. 50 (1) of Act 8 of 1997 and by s. 11 (1) of Act 19 of 1998.]

<b>No and year of law</b>	<b>Short title</b>	<b>Extent of amendment</b>
Act 9 of 1927	.....	
Act 47 of 1937	Deeds Registries Act, 1937	Amendment of section 102 by the substitution in subsection (1) for the definition of 'general plan' of the following definition:
		<p>"general plan" means a plan which represents the relative positions and dimensions of two or more pieces of land and has been signed by a person recognized by law as a land surveyor, and which has been approved, provisionally approved or certified as a general plan by a surveyor-general or other officer empowered under any law so to approve, provisionally approve or certify a general plan, and includes a general plan or copy thereof prepared in a surveyor-general's office and approved, provisionally approved or certified as aforesaid, or a general plan which has at any time, prior to the commencement of this Act, been accepted for registration in a deeds registry or surveyor-general's office;'.</p>
Act 52 of 1951	.....	.....

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