

LAKE AREAS DEVELOPMENT ACT NO. 39 OF 1975

Assented to: 30 April 1975

Date of commencement: 7 May 1975

ACT

To provide for the establishment of lake areas under the control of a Lake Areas Development Board, and for matters connected therewith.

INDEX

1. Definitions
2. Establishment of lake areas
3. Establishment of Lake Areas Development Board
4. Constitution of board
5. Chairman and vice-chairman of board
6. Tenure of office and vacation of office by members of board
7. Vacancies on board
8. Meetings and decisions of board
9. Committees of board
10. Conditions of service of members of board
11. Objects and powers of board
12. Staff of board
13. Insurance
14. Funds of board
- 14A. Accounting officer
- 14B. Recovery of losses and damages
15. Opening and closing of the mouth of a tidal lagoon or a tidal river and the construction of a water work within a lake area
16. Acquisition of private land in a lake area
17. Making available of State land to board
18. Disposal of funds of board
19. Accounts and auditing
20. Reports
21. Delegation of powers
22. Exemption from licence duties and fees
23. Regulations
24. Short title

1. Definitions

In this Act, unless the context otherwise indicates-

board means the Lake Areas Development Board established by section 3;

lake area means a lake area established under section 2;

land includes any part of the sea and the sea-shore;

local authority means an institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);

Minister means the Minister of Agriculture;

sea has the meaning assigned thereto in the Sea-shore Act, 1935 (Act No. 21 of 1935);

sea-shore has the meaning assigned thereto in the Sea-shore Act, 1935 (Act No. 21 of 1935);

tidal lagoon has the meaning assigned thereto in the Sea-shore Act, 1935 (Act No. 21 of 1935);

tidal river has the meaning assigned thereto in the Sea-shore Act, 1935 (Act No. 21 of 1935).

2. **Establishment of lake areas**

(1) Subject to the provisions of subsection (2), the Minister may by notice in the *Gazette*, with effect from a date mentioned in the notice-

(a) declare any land comprising or adjoining a tidal lagoon, a tidal river or any part thereof, or any other land comprising or adjoining a natural lake or a river or any part thereof, which is within the immediate vicinity of a tidal lagoon or a tidal river, to be a lake area under a name to be assigned to it in that notice;

[Para. (a) amended by s. 47 of Act No. 97 of 1986.]

(b) declare any land to be part of any lake area or exclude any land from any lake area.

[Sub-s. (1) amended by ss. 46 and 47 of Act No. 97 of 1986.]

(2) No land which is under the control of a provincial administration shall be declared to be a lake area or to be part of any lake area under subsection (1), except after consultation by the Minister with the Administrator concerned.

3. **Establishment of Lake Areas Development Board**

There is hereby established a juristic person to be known as the Lake Areas Development Board.

4. **Constitution of board**

The board shall consist of not fewer than four and not more than seven members to be appointed by the Minister.

5. **Chairman and vice-chairman of board**

(1) The Minister shall designate a member of the board as chairman of the board and another such member as vice-chairman of the board.

(2) When the chairman of the board is absent or unable to perform his functions as chairman of the board, the vice-chairman shall act as chairman, and the vice-chairman shall while so acting have all the powers and perform all the functions of the chairman.

(3) If the chairman or the vice-chairman ceases to hold office as a member of the board, the Minister shall designate another member of the board as chairman or vice-chairman (as the case may be).

6. **Tenure of office and vacation of office by members of board**

- (1) A member of the board shall be appointed for the period, but not exceeding five years, determined by the Minister at the time of appointment.
- (2) Any person whose period of office as a member of the board has expired shall be eligible for reappointment.
- (3) A member of the board shall vacate his office if-
 - (a) his estate is sequestrated;
 - (b) he becomes mentally ill as defined in the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (c) he is convicted of any offence and is sentenced to imprisonment without the option of a fine;
 - (d) he resigns as a member;
 - (e) he has absented himself from two consecutive meetings of the board without the leave of the board;
 - (f) he is removed from office in terms of subsection (4).
- (4) A member of the board may at any time be removed from office by the Minister if the Minister is of the opinion that there are good reasons for doing so.

7. Vacancies on board

- (1) If the office of a member of the board becomes vacant the Minister shall as soon as practicable appoint a person to fill the vacancy.
- (2) Subject to the provisions of section 8 (2), no decision of the board shall be held to be invalid by reason only of the fact that when such decision was taken, a vacancy existed on the board.

8. Meetings and decisions of board

- (1) A meeting of the board shall be held at a time and place to be determined by the chairman of the board.
- (2) A majority of all the members of the board shall form a quorum for any meeting of the board.
- (3) In the event of the absence of both the chairman and the vice-chairman from any meeting of the board, the members of the board present at the meeting shall elect one of their number to preside at such meeting.
- (4) The decision of a majority of the members of the board present at a meeting of the board shall be a decision of the board: Provided that in the event of an equality of votes the chairman of the board shall have a casting vote in addition to his deliberative vote.
- (5) A member of the board may not be present at or take part in the discussion of or cast his vote on a matter before the board or a committee thereof, in which he or his wife or his partner or employer, excepting the State, or the partner or employer of his wife, has a direct or an indirect financial interest.

9. Committees of board

- (1) The board may from among its members appoint one or more committees to assist it in the performance of its functions.
- (2) A committee referred to in subsection (1) shall consist of the chairman or the vice-chairman of the board, who shall be the chairman of the committee, and one or more other members.
- (3) The board may assign to a committee appointed in terms of subsection (1) any of its functions, but shall not be divested of any function which it has assigned to a committee, and may amend or withdraw any decision of a committee.
- (4) A committee referred to in subsection (1) shall meet at the times and places to be determined by the chairman of that committee.

10. Conditions of service of members of board

- (1) The remuneration, allowances, leave or other privileges or conditions of service of a member of the board who is not in the full-time service of the State, shall be determined from time to time by the Minister in consultation with the Minister of Finance.
- (2) Remuneration and allowances which may become payable in terms of subsection (1) shall be paid from the funds of the board.
- (3) The board shall refund to the Minister, for the benefit of the Consolidated Revenue Fund, any travelling or subsistence allowances paid out of public funds to any member of the board who is in the full-time service of the State.

11. Objects and powers of board

- (1) The objects of the board shall be to control, manage and develop any State land situated within any lake area and made available to the board by the Minister in terms of section 17 and to deal therewith in terms of this Act, and for that purpose the board may-
 - (a) sub-divide, lay out, plan and develop such State land;
 - (b) with the approval of the Minister and subject to such conditions as he may determine-
 - (i) sell, let, hypothecate or otherwise encumber such State land or any part thereof, or exchange it for private land within any lake area, whether before or after development; and
 - (ii) acquire by lease, exchange or otherwise, any private land or any interest in private land situated in any lake area or any building or other structure, in so far as the acquisition thereof may be necessary for or incidental to the attainment of the objects of the board;
 - (c) with the approval of the Minister and subject to such conditions as he may determine, advance moneys to a local authority for any purpose which in the opinion of the board will be conducive to the attainment of the objects of this Act;
 - (d) enter into contracts with the State, including the South African Railways and Harbours Administration, a local authority or any other body or person for the performance of any act which the board is empowered to perform;

- (e) borrow money;
 - (f) accept donations;
 - (g) provide accommodation and amenities in connection therewith for visitors to any lake area;
 - (h) provide any other service for the convenience of visitors to any lake area;
 - (i) erect, establish, equip or maintain any building, structure, depot or site which is required in connection with any matter referred to in paragraph (g) or (h) or let a site required for any such purpose;
 - (j) make such charges in connection with a matter referred to in paragraph (g) or (h) as it may determine;
 - (k) empower any person to carry on any activity which the board may carry on under paragraph (g) or (h), subject to such conditions and the payment of such fees as the board may deem fit.
- (2) The board shall not without the approval of the Minister, given in consultation with the Minister of Finance, accept any donation to which any condition is attached, or borrow any money.
- (3) The ownership of any immovable property donated to the board shall upon the acceptance of the donation by the board vest in the State.
- (4) The board may, if authorized thereto by the Minister, investigate the desirability, or otherwise, of declaring any area to be a lake area or of declaring any land to be part of a lake area or of excluding any land from any lake area.
- (5) The board may for the purposes of a notice mentioned in section 2 (1), cause any land to be defined in such notice to be surveyed.
- [Sub-s. (5) amended by s. 47 of Act No. 97 of 1986.]
- (6) Moneys derived from the sale of State land shall be paid into the Consolidated Revenue Fund.

12. **Staff of board**

The work incidental to the carrying out of its functions by the board shall be performed at the expense and under the directions and control of the board by persons with whom the board has concluded agreements for the performance of any act or piece of work or the rendering of services, on the conditions and at the remuneration determined by the Minister with the approval of the Minister of Finance.

13. **Insurance**

The board may arrange with an insurer for the provision of insurance cover-

- (a) for any member of the board who is not in the full-time service of the State and for any person with whom the board has concluded an agreement contemplated in section 12, in respect of any bodily injury, disablement or death resulting solely and directly from any accident occurring in the course of the performance of his functions in terms of this Act or,

in the case of such person, while performing the act or piece of work or rendering the services in terms of the agreement in question;

- (b) for the board against any loss, damage, risk or liability which it may suffer or incur, including cover in respect of all property under the control of the board.

14. **Funds of board**

- (1) The funds of the board shall consist of-

- (a) loans granted to the board from moneys appropriated by Parliament for the purpose, on the conditions determined by the Minister in consultation with the Minister of Finance;
 - (b) annual grants-in-aid out of moneys appropriated by Parliament for the purpose, which the Minister may pay out to the board in such amounts and for such purposes and on such conditions as he may determine;
 - (c) moneys derived from the letting of land or buildings by the board;
 - (d) interest derived from investments;
 - (e) moneys received by way of donation;
 - (f) moneys received in terms of regulations under section 23;
 - (g) moneys received from any other source.
- (2) The board shall open an account with a banking institution approved by the Minister and shall deposit in such account all moneys received by the board in terms of this Act.
 - (3) Any moneys standing to the credit of the account referred to in subsection (2) and which are not required for immediate use or as a reasonable operating balance shall, subject to the provisions of section 18 (1), be invested with the Public Debt Commissioners or shall be invested or utilized in any other manner determined by the Minister in consultation with the Minister of Finance.

14A. **Accounting officer**

The chairman of the board shall be the accounting officer charged with the accounting for all moneys received, and for all payments made, by the board.

[S. 14A inserted by s. 1 of Act No. 9 of 1980.]

14B. **Recovery of losses and damages**

- (1) If a person who is or was in the employ of the board caused the board any loss or damage because he-
 - (a) failed to collect moneys due to the board for the collection of which he is or was responsible;
 - (b) is or was responsible for an irregular payment of the board's moneys or for a payment of such moneys not supported by a proper voucher;

- (c) is or was responsible for fruitless expenditure of the board's moneys due to an omission to carry out his duties;
- (d) is or was responsible for a deficiency in, or for the destruction of, or any damage to, the board's moneys, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the board;
- (e) due to an omission to carry out his duties, is or was responsible for a claim against the board.

the accounting officer contemplated in section 14A shall determine the amount of such loss or damage and shall, subject to the provisions of subsection (5), by notice in writing, order that person to pay to him, within 30 days from the date of such notice, the amount so determined.

- (2) If a person who is in the employ of the board and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (6) and (7), be deducted from his salary or wage: Provided that such deduction shall not exceed one-fourth of his salary or wage at a time.
- (3) If a person who was in the employ of the board and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the said accounting officer shall, subject to the provisions of subsections (4), (5), (6) and (7), recover the amount from the person concerned by legal process.
- (4) If a person who has in terms of subsection (1) been ordered to pay an amount, makes, within the period stipulated in the notice in question, an offer to pay the amount in installments, the said accounting officer may allow payment in such installments as he may consider reasonable.
- (5) If for any reason whatsoever the said accounting officer is of the opinion that the amount of a loss or damage referred to in subsection (1) should not be recovered or should be recovered in part only from the person responsible therefor, he may request the board to exempt that person from payment of the whole or a portion of that amount, and the board may in its discretion approve of the whole or a portion of that amount not being recovered.
- (6) A person who has in terms of subsection (1) been ordered to pay an amount may, within a period of 30 days from the date of the order, appeal in writing against that order to the board, stating the grounds for his appeal, and the board may, after such investigation as it may deem necessary, dismiss the appeal or order that the appellant be exempted either wholly or partly, according as the board may consider fair and reasonable, from the payment of that amount.
- (7) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the board in accordance with subsection (6), apply within a period of 30 days from the date of the order, or within such further period as the court may allow, to a competent court for an order setting aside the first-mentioned order or reducing that amount, and the court may upon such an application, if it is not convinced by the said accounting-officer on the merits of the case that the order was rightly made or that that amount is correct, make an order setting aside the first-mentioned order or reducing that amount, as the case may be.

- (8) If an amount is reduced in terms of subsection (5), (6) or (7), the reduced amount shall *mutatis mutandis* be recovered in accordance with the provisions of subsections (1), (3) and (4).
- (9) Whenever a person who has in terms of subsection (1) been ordered to pay an amount, fails to pay that amount within the period stipulated in the notice in question, interest thereon shall be payable from the date immediately following on the date on which period expires, at a rate equal to the interest rate, if any, which has been determined in terms of section 26 (6) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), in respect of such a category of debt to the State and which is applicable on the first-mentioned date.

[S. 14B inserted by s. 1 of Act No. 9 of 1980.]

15. Opening and closing of the mouth of a tidal lagoon or a tidal river and the construction of a water work within a lake area

The mouth of a tidal lagoon or a tidal river shall be opened or closed by the board within any lake area, and a water work, as defined in section 1 of the Water Act, 1956 (Act No. 54 of 1956), shall be constructed by the board within any lake area, only in consultation with and subject to the directions of the Minister of Water Affairs.

16. Acquisition of private land in a lake area

- (1) The Minister may by the exchange of State land situated within or outside any lake area, acquire for the purposes of this Act any private land situated within any lake area.
- (2) If the Minister is satisfied that the board reasonably requires for the purposes of this Act any private land situated within any lake area and that he is unable to acquire that land by purchase, the Minister may at the request of the board expropriate that land.
- (3) The provisions of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of any expropriation under subsection (2).

[Sub-s. (3) amended by s. 94 of Act No. 63 of 1975.]

- (4) Any land situated within any lake area which has been acquired under this Act, shall be transferred to and be registered in the name of the Republic of South Africa.

17. Making available of State land to board

- (1) Any State land situated in a lake area which was not acquired out of the funds of the board in terms of the provisions of this Act, shall by agreement between the Minister and the board on such conditions as may be specified in the agreement, be placed at the disposal of the board, whether for a consideration or not: Provided that should compensation be payable in respect of such land which was originally acquired with moneys from any provincial revenue fund, such compensation shall be paid into the provincial revenue fund concerned.
- (2) Land acquired by the board in terms of this Act, shall be State land and shall be deemed to have been made available to the board for the purposes of this Act.

18. Disposal of funds of board

- (1) The board may from time to time pay to the Consolidated Revenue Fund, and any local authority within whose area of jurisdiction any lake area or part thereof is situated, such amounts from moneys standing to its credit as may in each case be approved by the Minister in consultation with the Minister of Finance.

- (2) Any amount which may in terms of subsection (1) become payable to any local authority, shall be paid over to it subject to such conditions as the Minister may determine.

19. Accounts and auditing

- (1) The board shall keep a proper record of the property and all financial transactions of the board and shall as soon as possible after the end of each financial year (which shall terminate on 31 March in each year) prepare accounts of its revenue and expenditure for such year and a balance sheet of its assets and liabilities as at 31 March.
- (2) The books, statements of account and balance sheet of the board shall be audited by the Controller and Auditor-General at such remuneration, payable by the board, as the Minister of Finance may determine.

20. Reports

- (1) The board shall keep an accurate record of its activities and shall as soon as possible after the end of each financial year submit to the Minister in a manner determined by him, a report relating to its activities during that financial year.
- (2) The Minister shall lay each report submitted to him in terms of subsection (1) on the Table in the Senate and in the House of Assembly within 14 days after receipt thereof, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its first ensuing ordinary session.

21. Delegation of powers

The Minister may delegate to any officer in the Public Service any power conferred upon him by this Act, except a power referred to in section 4, 5, 6, 7, 10 or 23, but shall not be divested thereby of any power delegated by him, and may vary or withdraw any decision of any such officer.

22. Exemption from licence duties and fees

No licence moneys, tax, duty or fee imposed by or under any law (other than customs, excise or sales duties leviable by law) shall be payable by the board.

23. Regulations

- (1) The Minister may make regulations-
- (a) providing for the regulation of and the control over such State land within any lake area as the board may from time to time reserve or set aside for streets, open sites or other public purposes or works constructed by it or under its authority;
 - (b) with regard to the siting, construction, erection and maintenance of and control over buildings and other improvements within any lake area;
 - (c) regulating the use of the sea-shore and the sea within any take area;
 - (d) providing for the control, generally, of the sea-shore and of the sea and of any lake or river within any lake area;

- (e) in consultation with the Minister of Finance, prescribing fees payable for the doing of any act upon or in or in relation to the sea-shore or the sea within any lake area;
- (f) with regard to the use of any lake or river in any lake area and, in consultation with the Minister of Finance, with regard to the fees payable therefor;
- (g) regulating the use of amenities provided for visitors to any lake area,

and, in general, with regard to any other matter which the Minister considers necessary or expedient to prescribe or regulate in order to attain or further the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

- (2) Different regulations may be made under this section in respect of different classes or categories of users of any lake area, and different lake areas.
- (3) Notwithstanding the provisions of the Sea-shore Act, 1935 (Act No. 21 of 1935), any regulation made by the Minister, as defined in section 1 of that Act, or by any local authority, under section 10 of that Act, shall not apply in respect of any lake area.
- (4) Any regulation made under this section may provide that all fees and fines collected in pursuance of that regulation, shall accrue to the board.
- (5) Any regulation under this section affecting any local authority may only be made after consultation with that local authority.
- (6) Any regulation made under this section may prescribe penalties for any contravention of or failure to comply with its provisions, not exceeding a fine of two hundred rand or imprisonment for a period of one year or both such fine and such imprisonment.
- (7)(a) If the Minister intends to make any regulation under this section, he shall cause the text of the proposed regulation to be published in the *Gazette* and in at least one newspaper circulating in the vicinity of the lake area concerned together with a notice declaring his intention to make such a regulation and inviting interested persons to submit to the Secretary for Agricultural Credit and Land Tenure any comments and representations they may wish to make in connection therewith.
- (b) A period of not less than three months shall elapse between the latest publication of such text and the publication of the regulation in question.
- (8) The provisions of subsection (7) shall not apply in respect of-
 - (a) an amendment of a proposed regulation in pursuance of the notice published in terms of that subsection; and
 - (b) any regulation in respect of which the Minister is of the opinion that the public interest requires that it be made without delay.

24. **Short title**

This Act shall be called the Lake Areas Development Act, 1975.

AMENDMENTS

Expropriation Act, No. 63 of 1975

Lake Areas Development Amendment Act, No. 9 of 1980

Transfer of Powers and Duties of the State President Act, No. 97 of 1986