

# Statutory instrument 287 of 1999

## Land Acquisition (Disposal of Rural Land) Regulations, 1999

SI 287/1999.

### ARRANGEMENT OF SECTIONS

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**IT is hereby notified that the Minister of Lands and Agriculture, in terms of section 47 of the Land Acquisition Act [Chapter 20:10], has made the following regulations:—**

#### **1. Title**

These regulations may be cited as the Land Acquisition (Disposal of Rural Land) Regulations, 1999.

#### **2. Interpretation**

In these regulations—

“certificate of no present interest”, in relation to any rural land, means a written statement by the Minister that the President has no intention to acquire the land in question for the time being.

“land owning company” means a private company— (a)  
which owns one or more pieces of rural land;

and

(b) whose holding of rural land constitutes the whole or the major part of its assets;

“significant transfer of shares”, in relation to a land-owning company, means a transfer of one or more of the company's shares which results in control over the company being transferred from one person or group of persons to another person or group of persons.

#### **3. Minister to be given right of first refusal on sale of rural land**

(1) Subject to these regulations, the owner of any rural land, other than the State, a local authority or a statutory body, shall not sell the land unless he has offered to sell it to the Minister and—

(a) the Minister has issued him with a certificate of no present interest; or

(b) the Minister has not responded to the offer within the ninety-day period specified in subsection (1) of section 5.

(2) An offer in terms of subsection (1) shall be in writing and shall—

(a) specify the price which the owner is prepared to accept for the rural land concerned; and

(b) describe the nature and extent of the rural land concerned and any buildings or other improvements on the land; and shall be accompanied by a copy of the title deed of the land.

#### **4. Minister to be notified before significant transfer of shares in land-owning company**

(1) Subject to these regulations, no person shall make a significant transfer of shares in a land owning company, unless he has notified the Minister of his intention to transfer the shares and—

(a) the Minister has issued him with a certificate of no present interest; or

(b) the Minister has not responded to the notification within the ninety-day period specified in subsection (2) of section 5.

(2) Notification in terms of subsection (1) shall be in writing and shall— (a)  
specify—

(i) the name and address of the land-owning company concerned; and

(ii) the number of shares that are intended to be transferred; and

(iii) the price at which the shares are to be transferred; and

(b) describe the nature and extent of the rural land concerned and any buildings or other improvements on the land; and shall be accompanied by a copy of any share certificate issued in respect of the shares that are intended to be transferred.

#### **5. Minister's response to offer or notification**

(1) Within ninety days after receiving an offer in terms of section 3, the Minister may— (a) inform the owner of the rural land concerned, in writing that—

- (i) the offer is accepted on behalf of the President; or
- (ii) the President wishes to acquire the rural land concerned at a lower price than that specified in the offer;

or

(b) if he considers that the President should not for the time being acquire the rural land concerned, issue the owner with a certificate of no present interest.

(2) Within ninety days after receiving notification in terms of section 4, the Minister may— (a) inform the transferor of the shares concerned, in writing, that—

- (i) any rural land owned by the company concerned is to be acquired compulsorily in terms of this Act; or
- (ii) ownership of any rural land owned by the company concerned is to be resumed in terms of any condition contained in the land's title deed;

or

(b) if he considers that the President should not for the time being acquire any rural land owned by the company concerned, issue the transferor of the shares concerned with a certificate of no present interest.

(3) Where the Minister issues a certificate of no present interest in terms of subsection (1) or (2), he shall return to the owner or transferor, as the case may be, any copy of a title deed or share certificate that was sent to him in terms of section 3 or 4, as the case may be.

(4) Where the Minister informs an owner, in terms of subparagraph (ii) of paragraph (a) of subsection (1), that the president wishes to acquire rural land at a lower price than that offer, the Minister shall specify the price which the President is prepared to pay for the land.

#### **6. Negotiations for purchase of rural land**

(1) If the owner of any rural land which was the subject of an offer in terms of section 3 rejects a price proposed by the Minister in terms of subsection (4) of section 5, the Minister shall, within ninety days after being notified of the rejection, commence negotiations with the owner in regard to the price to be paid by the President for the rural land concerned.

(2) If negotiations referred to in subsection (1) conclude without an agreement being reached on the price to be paid for the rural land concerned, the Minister shall, within forty-five days after the conclusion of the negotiations—

(a) issue the owner of the land with a certificate of no present interest; or (b) notify the owner, in writing, that it is intended—

- (i) to acquire the land compulsorily in terms of this Act; or
- (ii) to resume ownership of the land in terms of any condition in the land's title deed.

(3) Negotiations shall be deemed to have concluded without agreement for the purposes of subsection (2) if no agreement is reached on the price payable for the rural land concerned within fourteen days from the commencement of the negotiations.

#### **7. Affidavit in lieu of certificate of no present interest or in lieu of response by Minister**

If the Minister does not—

- (a) respond to an offer of sale within the ninety-day period specified in subsection (1) of section 5; or
- (b) respond to a notification of intention to transfer shares within the ninety-day period specified in subsection (2) of section 5; or
- (c) within the forty-five day period specified in subsection (2) of section 6, issue the owner concerned with a certificate of no present interest or notify the owner that it is intended to acquire the rural land concerned compulsorily or to resume ownership of it under a condition in its title deed; or
- (d) serve a preliminary notice of compulsory acquisition in respect of the rural land concerned, or take steps to resume ownership of it in terms of a condition in its title deed, as the case may be, within sixty days after—

- (i) informing a transferor of shares in terms of paragraph (a) of subsection (2) of section 5 that it is intended to acquire the land compulsorily or to resume ownership of the land; or
- (ii) notifying the owner in terms of paragraph (b) of subsection (2) of section 6 that it is intended to acquire the land compulsorily or to resume ownership of the land;

the owner or transferor, as the case may be, may, after fourteen days' notice to the Minister of his intention to do, execute an affidavit deposing to those facts and thereupon may sell the land or transfer the shares, as the case may be, to any person of his choice.

**8. Duration of certificate of no present interest or affidavit**

Rural land or shares in respect of which a certificate of no present interest has been issued in terms of section 5 or 6 or an affidavit has been executed in terms of section 7 may be sold or transferred without further reference to the Minister in terms of these regulations for a period of one year from— (a) the date on which the certificate of no present interest was issued; or

(b) the date on which the owner or transferor first became entitled to execute the affidavit. as the case may be.

**9. Transfers pursuant to sale of land not to be registered without Minister's certificate**

The Registrar of Deeds shall not register any transfer of rural land pursuant to a sale unless the deed of is accompanied by—

(a) a certificate of no present interest; or (b) an affidavit executed in terms of section 7:

Provided that this section shall not apply to any transfer effected by the State, a local authority or a statutory body.

**10. Invalidity of transfers effected in contravention of these regulations**

Any transfer of land or shares effected in contravention of these regulations shall be void.

**11. Regulations not to affect right to acquire land compulsorily**

The fact that the Minister has—

- (a) issued a certificate of no present interest in regard to any rural land; or
- (b) failed to respond to any offer in terms of section 3 or notification in terms of section 4; or
- (c) made any offer for any rural land in terms of section 5 or entered into negotiations for the sale of any rural land in terms of section 6; shall not affect the right of the Minister, the President or any other person to acquire land compulsorily in terms of the Act or to resume ownership of the land in terms of any condition in the land's title deed.

**12. Repeals and savings**

(1) The Land Acquisition (right of First Refusal for Rural Land) Regulations, 1992, published in Statutory Instrument 297 of 1992, and the Land Acquisition (right of First Refusal for Rural Land) (Amendment) Regulations, 1999 (No. 1), published in Statutory Instrument 189 of 1999, are repealed.

(2) Any certificate issued, affidavit executed, offer made or other thing whatsoever which was done or commenced under the regulations repealed by subsection (1) and which had legal effect immediately before the date of commencement of these regulations shall continue to have or to be capable of acquiring, as the case may be, the same effect as if it had been issued, executed, made or done under the appropriate provision of these regulations.