

CHAPTER 20:17

RHODES ESTATES ACT

Acts 10/1978, 41/1978 (s. 43); R.G.N. 102/1979; S.Is 78/1986, 79/1986.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

RHODES ESTATES

3. Description of Estates.
4. Duties of Trustee.
5. General powers of Trustee in relation to Estates.
6. Trustee may consent to portion of Estates being constituted park area.
7. Trustee may grant servitudes.

PART III

NYANGA AND MATOPOS FUNDS

8. Holding of Funds.
9. Payments into Funds.
10. State to make payment to Trustee.
11. Special investments.
12. Application of Funds.
13. Investment and expenditure in respect of Funds.

PART IV

GENERAL

14. Trustee may delegate and assign powers and duties.
15. Trustee released from certain obligations.
16. Prohibition of burial.
17. Subleasing of Estates subject to approval of Trustee.
18. Validation of previous dispositions of land or rights therein.

SCHEDULES

First Schedule: Rhodes Estates.

Second Schedule: Extracts from the Will of the Late Right Honourable Cecil John Rhodes.

Third Schedule: Special Investments.

AN ACT to provide for the development and maintenance of Rhodes Estates; to provide for the administration and use of the Inyanga and Matopos Funds; to consolidate and repeal the laws relating to the foregoing; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 2nd April, 1978.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Rhodes Estates Act [*Chapter 20:17*].

2 Interpretation

In this Act—

“Estates” means the Nyanga Estates and the Matopos Estates;

“Funds” means the Nyanga Fund and the Matopos Fund;
 “Nyanga Estates” means the properties specified in Part I of the First Schedule;
 “Nyanga Fund” means the Inyanga Fund referred to in clause 9 of the Will;
 “Matopos Estates” means the properties specified in Part II of the First Schedule;
 “Matopos Fund” means the Matopos and Bulawayo Fund referred to in clause 8 of the Will;
 “Minister” means the Minister of Lands and Water or any other Minister to whom the President may, from time to time, assign the administration of this Act;
 “park area” means a national park, botanical reserve, botanical garden, sanctuary or recreational park in terms of the Parks Act;
 “Parks Act” means the Parks and Wild Life Act [*Chapter 20:14*];
 “Parks Board” means the Parks and Wild Life Board established in terms of section 3 of the Parks Act;
 “Rhodes Nyanga Committee” means the Rhodes Nyanga Committee established in terms of the Parks Act;
 “Rhodes Matopos Committee” means the Rhodes Matopos Committee established in terms of the Parks Act;
 “Trustee” means the President in his capacity as trustee of the Estates;
 “Will” means the Will of the late Right Honourable Cecil John Rhodes, a portion of which is set out in the Second Schedule.

PART II

RHODES ESTATES

3 Description of Estates

(1) The Estates shall consist of the Nyanga Estates and the Matopos Estates.

(2) The Estates shall vest in the President and, subject to this Act, shall be held in trust by him for the people of Zimbabwe.

4 Duties of Trustee

(1) The Trustee shall administer the Estates in accordance with the Will and this Act.

(2) The Trustee shall not exercise any of the powers conferred by the Will or by section *five* or *seven* unless there has been prior consultation with the Rhodes Nyanga Committee or Rhodes Matopos Committee, as the case may be.

5 General powers of Trustee in relation to Estates

(1) Notwithstanding anything to the contrary contained in the Will, the Trustee may, subject to this section and of sections *four* and *six*, in addition to using the Estates in the manner set out in the Will—

- (a) use portions of the Estates for agricultural purposes, including forestry, fisheries and the conservation or management of wild life;
- (b) use portions of the Estates as sites for hotels, shops, stores, garages, rest huts, camps, playing fields and such other amenities as he deems desirable in the interests of visitors to, or persons residing on, the Estates;
- (c) lease any portion of the Estates to the State or to any local authority, statutory body or other person for the purpose of—
 - (i) giving effect to the Will; or
 - (ii) agriculture referred to in paragraph (a); or
 - (iii) enabling the development or use of sites referred to in paragraph (b) for the purposes specified in that paragraph;
- (d) lease any portion of the Estates to the State or to any local authority or statutory body where the Trustee considers it necessary for the provision of facilities for administration, a post office, police station, aerodrome, school, hospital, cemetery or other like purpose as may be required from time to time in the interests of Zimbabwe;
- (e) subject to subsection (2), sell or otherwise dispose of any portion of the Estates which, in his opinion, is not suitable or convenient for giving effect to the purposes of the Will or this Act;
- (f) acquire any land which is contiguous or close to the Estates and suitable or convenient for giving effect to the purposes of the Will and this Act and incorporate such land into the Inyanga Estates or Matopos Estates, as the case may be.

(2) Notwithstanding Part IV of the Deeds Registries Act [*Chapter 20:05*], the State land forming part of the Rhodes Matopos National Park and the State land forming part of the Lake Matopos Recreational Park, approximately thirty-seven thousand three hundred and forty-two hectares in extent, may be acquired in terms of paragraph (f) of subsection (1) and transferred to the Trustee by deed of grant without having a diagram as defined in section 2 of that Act annexed thereto, subject to the following conditions—

- (a) the Trustee shall ensure that a diagram as so defined is prepared and registered in the Deeds Registry before the 31st December, 1980, or such later date as the Minister may, by notice in writing, agree; and

(b) the Trustee shall not sell or otherwise dispose of any land so transferred until the diagram has been registered in the Deeds Registry in terms of paragraph (a).

(3) The total area of—

(a) the Nyanga Estates shall not at any time be reduced below forty-one thousand six hundred and five hectares;

(b) the Matopos Estates shall not at any time be reduced below thirty-eight thousand eight hundred and twenty-one hectares.

(4) Where the Trustee sells or disposes of any portion of the Estates or incorporates into the Estates any land acquired by him, the Minister shall, by notice in a statutory instrument, amend Part I or Part II, as the case may be, of the First Schedule for the purpose of reflecting the alteration in the description of the Nyanga Estates or Matopos Estates, as the case may be.

(5) The Trustee may—

(a) do all things ancillary or incidental to the purposes specified in paragraph (a) of subsection (1);

(b) prepare, build and maintain hotels, shops, stores, garages, rest huts, camps, playing fields and other amenities specified in paragraph (b) of subsection (1);

on the Estates.

(6) The period of any lease of a portion of the Estates shall not exceed—

(a) in the case of a lease for agricultural purposes, fifty years;

(b) in any other case, twenty-five years;

unless the Trustee considers that in the circumstances of any particular lease, the period should exceed fifty or twenty-five years, as the case may be.

6 Trustee may consent to portion of Estates being constituted park area

The Trustee may, if he considers that it will be in the interests of the Estates and of the people of Zimbabwe, consent to any part of the Estates being constituted a park area in terms of the Parks Act, and such park area shall thereafter be administered and managed in accordance with the Parks Act.

7 Trustee may grant servitudes

Subject to section *four*, the Trustee may grant such servitudes in respect of any portion of the Estates as he considers to be necessary in the circumstances.

PART III

NYANGA AND MATOPOS FUNDS

8 Holding of Funds

The Nyanga Fund and the Matopos Fund shall vest in the President who shall administer them in accordance with the provisions of the Will and of this Act.

9 Payments into Funds

There shall be paid into—

(a) the Nyanga Fund—

(i) all rents and accruals of moneys from the leasing of any portion of the Nyanga Estates;

(ii) all proceeds from the sale or disposal by the Trustee of any portion of the Nyanga Estates or produce or materials therefrom;

(iii) any donation or grant made to the Nyanga Fund by the State, any local authority or statutory body or any other person;

(iv) moneys paid to the Trustee in terms of section *ten*;

(v) the income and accruals from the investments of the Nyanga Fund; and any other moneys accruing to the Nyanga Fund;

(b) the Matopos Fund—

(i) all rents and accruals of money from the leasing of any portion of the Matopos Estates;

(ii) all proceeds from the sale or disposal by the Trustee of any portion of the Matopos Estates or produce or materials therefrom;

(iii) any donation or grant made to the Matopos Fund by the State, any local authority or statutory body or any other person;

(iv) the income and accruals from the investments of the Matopos Fund; and any other moneys accruing to the Matopos Fund.

10 State to make payment to Trustee

The State shall pay to the Trustee twenty *per centum* of the purchase price of any land sold by the State which was transferred to the State in terms of section 3 of the repealed Nyanga Township Act [*Chapter 143*] or any lump sum payment agreed by the Trustee as being in full and final settlement of the amount payable by the State in respect of such land.

11 Special investments

(1) Subject to subsections (2) and (3), the investments specified in Part I or Part II of the Third Schedule shall not be used for any purpose for which the other assets of the Fund concerned may be used in terms of the Will or this Act.

(2) Subsection (1) shall not apply in relation to any income derived from the investments mentioned in subsection (1).

(3) The Trustee may realize any investments specified—

(a) in Part I of the Third Schedule, after consultation with the Rhodes Nyanga Committee; and

(b) in Part II of the Third Schedule, after consultation with the Rhodes Matopos Committee;

and the moneys derived therefrom shall be invested in such stock issued by the Government or a municipality or statutory body incorporated in Zimbabwe or referred to in the Third Schedule as the Trustee, after consultation with the Rhodes Nyanga Committee or Rhodes Matopos Committee, as the case may be, deems fit.

(4) Subsections (1), (2) and (3) shall apply, *mutatis mutandis*, in respect of investments made in terms of subsection (3) as if they were investments specified in Part I or Part II, as the case may be, of the Third Schedule.

(5) Any investments made in terms of subsection (3) shall be shown separately in the accounts of the Fund concerned as being investments to which this section apply.

(6) Where any investments are made in terms of subsection (3), the Minister shall, by notice in a statutory instrument, amend Part I or Part II, as the case may be, of the Third Schedule for the purpose of reflecting the alteration in the description of the investments to which this section apply.

12 Application of Funds

Notwithstanding anything to the contrary contained in the Will, the Trustee may, subject to this Act, in addition to using the Funds in the manner set out in the Will, use moneys—

(a) in the Nyanga Fund for the purpose of exercising any of the powers conferred upon him by section *five* in relation to the Inyanga Estates, including the acquisition of land for incorporation into the Nyanga Estates, and for any other purpose which, in his opinion, is desirable in the interests of the development or maintenance of the Nyanga Estates;

(b) in the Matopos Fund for the purpose of exercising any of the powers conferred upon him by section *five* in relation to the Matopos Estates, including the acquisition of land for incorporation into the Matopos Estates, and for any other purpose which, in his opinion, is desirable in the interests of the development or maintenance of the Matopos Estates.

13 Investment and expenditure in respect of Funds

(1) Subject to section *eleven* and subsection (2), the Trustee may invest any moneys in the Funds which are not immediately required and may realize any investments of the Funds, not being investments specified in the Third Schedule.

(2) The Trustee shall not exercise any powers in terms of subsection (1) unless he has submitted the proposal concerned to the Rhodes Nyanga Committee or Rhodes Matopos Committee, as the case may be, and has considered its report thereon:

Provided that it shall not be necessary to submit to any such Committee any proposal—

(a) to invest moneys in Treasury bills or stock issued by the Government or a municipality or statutory body incorporated in Zimbabwe;

(b) to make any short term deposits of moneys with an institution approved by the Rhodes Nyanga Committee or Rhodes Matopos Committee, as the case may be, or to withdraw any such deposit.

(3) The Trustee shall not incur any expenditure in respect of either of the Funds unless he has submitted the proposal concerned to the Rhodes Nyanga Committee or Rhodes Matopos Committee, as the case may be, and has considered its report thereon.

PART III

GENERAL

14 Trustee may delegate and assign powers and duties

(1) The Trustee may, subject to such conditions as he may impose, delegate and assign any of his powers and duties in terms of the Will or this Act to the Minister and may at any time revoke any such delegation or assignment.

(2) Where the Rhodes Nyanga Committee or Rhodes Matopos Committee has, in its report in terms of section 13 of the Parks Act, made a recommendation which has been accepted by the Parks Board and which relates to any matter delegated or assigned to the Minister in terms of subsection (1), the Minister shall not vary or reject such recommendation without the approval of the Trustee.

15 Trustee released from certain obligations

The Trustee is released from the obligations and trusts of clause 8 of the Will in so far as they relate to—

- (a) a portion of the Sauerdale Property being planted with every possible tree;
- (b) a short railway line being constructed from Bulawayo to Westacre.

16 Prohibition of burial

Notwithstanding anything to the contrary contained in clause 6 of the Will, it shall not be lawful to bury any person on the hill known as “The View of the World” referred to in clause 3 of the Will or within a radius of two kilometres of the grave of the late Right Honourable Cecil John Rhodes.

17 Subleasing of Estates subject to approval of Trustee

Notwithstanding anything to the contrary in the Forest Act [*Chapter 19:05*] or any other law, a lessee of any portion of the Estates shall not sublet or permit the subletting of any such land leased by him or portion thereof without the approval of the Trustee.

18 Validation of previous dispositions of land or rights therein

No—

- (a) lease of, or grant of rights over, any portion of the Estates made before the 2nd April, 1978; or
- (b) sale of any land before the 2nd April, 1978 which, prior to its sale, formed part of the Rhodes Estates Matopos or the Rhodes Estates Nyanga;

shall be regarded as invalid solely on the grounds of any want of authority on the part of the Trustee in connection with the granting of such lease or other rights or the making of such sale.

FIRST SCHEDULE (Sections 2 and 5 (3))

RHODES ESTATES

PART I

INYANGA ESTATES

	<i>Hectares</i>
1. Gaeresi	1 176
2. Inyanga.....	1 581
3. Nyanga Slopes	1 448
4. R/E Nyanga Valley	1 427
5. Placefell	1 700
6. Pungwe Source	10 958
7. Wicklow.....	1 894
8. Nyangombe	6 089
9. Bideford	1 837
10. Erin	6 110
11. Fruitfield	2 732
12. Warrendale.....	1 806
13. S/D “A” Pungwe Falls	224
14. Lot 1 of Nyanga	185
15. Holden A.....	2 495
16. Nyanga Block A.....	3 199
17. Pungwe Falls B	109
	44 970

PART II

MATOPOS ESTATES

	<i>Hectares</i>
1. Remaining Extent of Hazelside	2 593
2. Lucydale.....	2 308
3. Longsdale.....	2 638
4. R/E Sauerdale Block.....	21 766
5. Remaining Extent of Westacre Creek.....	5 244
6. The World’s View	4 224

7. Mineral King Extension	77
8. Subdivision A of Manzana	13
9. Remaining Extent of Manzana	211
	<hr/>
	39 074
	<hr/>

SECOND SCHEDULE (Section 2)

EXTRACTS FROM THE WILL OF THE LATE RIGHT HONOURABLE CECIL JOHN RHODES

3. I admire the grandeur and loneliness of the Matopos in Zimbabwe and therefore I desire to be buried in the Matopos on the hill which I used to visit and which I called the “View of the World” in a square to be cut in the rock on the top of the hill covered with a plain brass plate with these words thereon—“Here lie the remains of Cecil John Rhodes” and accordingly I direct my executors at the expense of my estate to take all steps and do all things necessary or proper to give effect to this my desire and afterwards to keep my grave in order at the expense of the Matopos and Bulawayo Fund hereinafter mentioned.
6. I direct my Trustees on the hill aforesaid to erect or complete the monument to the men who fell in the first Matabele war at Shangani in Zimbabwe the bas-reliefs for which are being made by Mr. John Tweed and I desire the said hill to be preserved as a burial place but no person is to be buried there unless the Government for the time being of Zimbabwe until the various states of South Africa or any of them shall have been federated and after such federation the Federal Government by a vote of two-thirds of its governing body says that he or she has deserved well of his or her country.
7. I give free of all duty whatsoever my landed property near Bulawayo in Matabeleland Zimbabwe and my landed property at or near Inyanga near Harare in Mashonaland Zimbabwe to my Trustees hereinbefore named Upon Trust that my Trustees shall in such manner as in their uncontrolled discretion they shall think fit cultivate the same respectively for the instruction of the people of Zimbabwe.
8. I give free of all duty whatsoever to my Trustees hereinbefore named such a sum of money as they shall carefully ascertain and in their uncontrolled discretion consider ample and sufficient by its investments to yield income amounting to the sum of £4 000 sterling per annum and not less and I direct my Trustees to invest the same sum and the said sum and the investments for the time being representing it I hereinafter refer to as “the Matopos and Bulawayo Fund”. And I direct that my Trustees shall for ever apply in such manner as in their uncontrolled discretion they shall think fit the income of the Matopos and Bulawayo Fund in preserving protecting maintaining adorning and beautifying the said burial place and hill and their surroundings and shall for ever apply in such manner as in their uncontrolled discretion they shall think fit the balance of the income of the Matopos and Bulawayo Fund and any rents and profits of my said landed properties near Bulawayo in the cultivation as aforesaid of such property. And in particular I direct my Trustees that a portion of my Sauerdale property a part of my said landed property near Bulawayo be planted with every possible tree and be made and preserved and maintained as a park for the people of Bulawayo and that they complete the dam at my Westacre property if it is not completed at my death and make a short railway line from Bulawayo to Westacre so that the people of Bulawayo may enjoy the glory of the Matopos from Saturday to Monday.
9. I give free of all duty whatsoever to my Trustees hereinbefore named such a sum of money as they shall carefully ascertain and in their uncontrolled discretion consider ample and sufficient by its investments to yield income amounting to the sum of £2 000 sterling per annum and not less and I direct my Trustees to invest the same sum and the said sum and the investments for the time being representing it I hereinafter refer to as “the Inyanga Fund”. And I direct that my Trustees shall for ever apply in such manner as in their absolute discretion they shall think fit

the income of the Inyanga Fund and any rents and profits of my said landed property at or near Inyanga in the cultivation of such property and in particular I direct that with regard to such property irrigation should be the first object of my Trustees.

10. For the guidance of my Trustees I wish to record that in the cultivation of my said landed properties I include such things as experimental farming forestry market and other gardening and fruit farming irrigation and the teaching of any of those things and establishing and maintaining an Agricultural College.

THIRD SCHEDULE (Section 11)

SPECIAL INVESTMENTS

PART I

INVESTMENTS—INYANGA FUND

<i>Description of stock</i>	<i>Nominal value</i> \$
Rhodesia Government Stock Local Registered	
6½% 1991-96 (3/71)	<u>\$97 687</u>

PART II

INVESTMENTS—MATOPOS AND BULAWAYO FUND

<i>Description of stock</i>	<i>Nominal value</i> \$
Zimbabwe Government Stock Local Registered Issues	
6½% 1983-88 (4/63)	74 000
6½% 1986-91 (2/66)	14 214
6½% 1989-94 (3/69)	20 848
6½% 1991-96 (3/71)	3 688
31/10 per cent. 1995-2000 5/85.....	50 000
Zimbabwe Municipal Stock Local Registered Issues	
City of Harare 6¾% 1994-99 (3/06).....	<u>57 700</u>
	<u>\$220 450</u>